

DECISIONS

OF THE

RAILROAD COMMISSION

OF THE

STATE OF CALIFORNIA

VOLUME III

JULY 1, 1913, TO DECEMBER 31, 1913.



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CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 764.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY AND ED. FLETCHER FOR AN ORDER AUTHORIZING AND PERMITTING AN INCREASE IN THE RENTALS, TOLLS AND CHARGES FOR WATER FURNISHED IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

Application No. 118.

Decided July 1, 1913.

Application of Pacific Building Company for rehearing and modification of Commission's decision No. 536 in this case as to the rates charged by Murray and Fletcher to this company.

Held, Cuyamaca Water Company to reduce wholesale rates for water to Pacific Building Company from twenty-five cents to eighteen cents per 1,000 gallons, total consumption not to exceed 9,875 miner's inches per annum. Pacific Building Company to charge twenty-five cents per thousand, with minimum rate of \$1.00.

A. H. Sweet, for Applicants.

Haines & Haines, D. G. Gordon, and Crouch & Harris, for Consumers.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

OPINION ON APPLICATION FOR REHEARING.

The Pacific Building Company has applied to this Commission for a rehearing and modification of the order heretofore entered in this case respecting the rates which shall be charged by Murray and Fletcher to this company. The Pacific Building Company is a land company which operates a water system in conjunction with the property sold by it and by its predecessor in ownership of this water system. It has been furnishing water to its consumers at twenty cents per thousand gallons with a minimum monthly charge of one dollar. It has in the neighborhood of 318 metered consumers.

In the order in Application No. 118, the Commission uses the following language with reference to the rates for domestic use:

"For domestic use twenty-five cents per thousand gallons with a minimum charge of \$1.25 per month, the applicants to furnish meters and cost of installation of all facilities, the consumer to furnish pipe upon his own premises."

It is urged by the Pacific Building Company that it can not pay the Cuyamaca Water Company twenty-five cents per thousand gallons and then distribute the water to its patrons at the same price, and of course this goes without saying and it is admitted by the owners of the Cuyamaca system. It only remains to be determined, therefore, what modification in the order shall be made respecting the wholesale rate which shall be charged by the owners of the Cuyamaca system to the Pacific Building Company. After consideration of the evidence introduced on this point and the statements filed, I am of the opinion that a rate of eighteen cents per thousand gallons is, under all the circumstances of this case at the present time, a reasonable rate to be charged by the Cuyamaca Water Company to the Pacific Building Company for the water distributed by the latter company. The Pacific Building Company should be allowed to charge the rate which is established for a corresponding service to be performed by the Cuyamaca Water Company in the decision in Application No. 118, and such permission would be granted to it were it not for the fact that a complaint is now pending before this Commission, and not yet determined, wherein the quality of the service of the Pacific Building Company is called in question. The rate of twenty-five cents per thousand gallons with a minimum charge of \$1.25 fixed in Application No. 118 was the rate to be charged for good service. If the service is poor the rate should be lower. I am ready to recommend, however, that the Pacific Building Company be permitted to charge the rate of twenty-five cents per thousand gallons fixed as a rate for domestic consumption in Application No. 118, but that it be required to maintain the minimum rate of one dollar per consumer which it is now charging. No public utility should be permitted to bring about an increase in its rates when the character of its service is in question. If after the hearing of Case No. 403, which is the complaint now pending against the Pacific Building Company, it shall be found that its service is in fact good, or as soon thereafter as its service shall be proper in all respects, I recommend that it be permitted to enforce the minimum charge of \$1.25 per month.

I submit the following order:

ORDER.

Pacific Building Company having applied for a rehearing and modification of the order in this case, and a hearing having been held, and being fully apprised in the premises, *It is hereby ordered*

First—That the rate at which the Cuyamaca Water Company shall deliver water to the Pacific Building Company shall be eighteen (18) cents per thousand gallons up to a total consumption of 9.875 miner's inches per annum, and that beyond that quantity no water shall be delivered without the further order of this Commission, and the rate

of eighteen (18) cents per thousand gallons is hereby fixed as the just and reasonable rate for this service.

Second—Pacific Building Company shall charge twenty-five (25) cents per thousand gallons to its consumers with a minimum rate to each consumer of one dollar (\$1.00) per month, and shall observe the conditions with reference to the installation of meters and service prescribed in the main order in this case, and the rate of twenty-five (25) cents per thousand gallons with a minimum charge of one dollar (\$1.00) is hereby fixed as the just and reasonable rate to be charged by the said Pacific Building Company to its consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of July, 1913.

DECISION No. 765.

RICHARD F. ROBERTSON

vs.

PENINSULAR RAILWAY COMPANY.

Case No. 388.

Decided July 1, 1913.

Complainant alleges unreasonableness of passenger rates of the Peninsular Railway Company between Los Gatos and San Jose. *Held*, complaint not sustained, dismissed.

B. S. Crittenden, for Complainant.

S. F. Leib and Owen D. Richardson, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This complaint was originally directed against the one-way fare, the individual monthly commutation fare and the family commutation fare of the defendant, Peninsular Railway Company, in effect between San Jose and Los Gatos, and also comprehended the service of said defendant between these points. At the hearing, the children's forty-six ride individual monthly commutation fare of \$2.30 between Saratoga and Los Gatos, for a distance of approximately 4.3 miles, was alleged to be unreasonable and unjust as compared with the fare of \$2.75 for the

same class of service between Saratoga and San Jose for a distance of 11.3 miles. At the same time, the single trip fare of 10 cents between Campbell and a station called Pines, and between Pines and certain points adjacent thereto, was complained of as being unreasonable.

Without examining into these matters and hearing fully in regard thereto, it would, of course, be impossible to fairly determine the equities therein, and as no evidence was introduced to support these allegations, and as they are entirely without the issues raised by the pleadings, these matters will not be given further consideration at this time. These matters may be brought before the Commission in a regular manner at any future time.

The service between San Jose and Los Gatos is practically hourly throughout the day and until 11.30 o'clock at night and during some parts of the day cars leave San Jose for Los Gatos, via Campbell and via Saratoga, at practically the same time, and thereby afford optional routes between San Jose and Los Gatos on practically the same schedule.

From the point of view of the complainant, who is a resident of Los Gatos, and who very frankly admitted that he was viewing the matter from the standpoint of his own personal convenience and as a citizen of Los Gatos only, the present schedule could be bettered by alternating over the two routes the present trains on half-hour schedules, and that, instead of having a train by each route leave San Jose or Los Gatos hourly, the schedule should be so arranged that there would be a train between San Jose and Los Gatos on the hour and the half-hour by alternate routes.

The complainant had no fault to find with the number of trains between Los Gatos and San Jose, but with the manner in which they were operated only.

It is my opinion that the interest of the parties living in the territory between San Jose and Los Gatos should be fully considered in this matter before any change in the schedules of the trains is made, and in view of the fact that it has not been possible to look into this feature of this matter, and that the testimony of the defendant that ninety per cent of its traffic on this part of its line originates and terminates at points intermediate to Los Gatos, and that the present schedules were specially arranged to take care of the traffic of the whole community, rather than of any particular section, was uncontroverted. I do not believe that it is proper at this time to make any change in the defendant's train schedules between San Jose and Los Gatos.

I next come to the complaint against the passenger fares of the defendant. The fares which were particularly called into question in this proceeding are the one-way fare of 25 cents, the 62-ride individual monthly commutation fare of \$5.00, and the 30-ride family six months commutation fare of \$5.00 between San Jose and Los Gatos.

It is contended that these fares are excessive and unjust, for the reason that they are inconsistent with other fares of the defendant, and exceed fares between other points on other lines in California where the transportation conditions and circumstances are similar, and, in support of this contention, the complainant points out, in comparison, the fares of the defendant between San Jose and Saratoga, the fares of the Pacific Electric Railway between Los Angeles and Pasadena, and the fares of the Northwestern Pacific Railroad between San Francisco and Fairfax; and to illustrate these comparisons, I have set out these fares in a statement herein below.

Peninsular Railway Company.

| | Miles | One-way fare in cents | Rate per mile in cents | 63-ride individual monthly commuta- tion fare | Rate per mile in cents | 30-ride family discount commuta- tion fare | Rate per mile in cents | 46-ride individual commuta- tion fare | Rate per mile in cents | 46-ride children's individual monthly commuta- tion fare | Rate per mile in cents |
|--|-------|-----------------------------|------------------------------|---|------------------------------|--|------------------------------|--|------------------------------|---|------------------------------|
| Between San Jose and Saratoga. | 11.3 | \$0.20 | 1.77 | \$4 80 | .685 | \$4 00 | 1.18 | \$4 00 | .77 | \$2 75 | .53 |
| Between San Jose and Los Gatos (via Campbell) ----- | 12.3 | .25 | 2.03 | 5 00 | .655 | 5 00 | 1.36 | 4 15 | .733 | 3 00 | .53 |
| Between San Jose and Los Gatos (via Saratoga) ----- | 15.6 | .25 | 1.65 | 5 00 | .516 | 5 00 | 1.07 | 4 15 | .578 | 3 00 | .418 |

Pacific Electric Railway.

| | | | | | | | | | | | |
|--|------|--------|------|--------|------|--------|------|-------|-------|--------|------|
| Between Los Angeles and Pasadena ----- | 11.2 | \$0.15 | 1.34 | \$5 00 | .858 | \$3 00 | .892 | ----- | ----- | \$3 45 | .671 |
|--|------|--------|------|--------|------|--------|------|-------|-------|--------|------|

Northwestern Pacific Railroad.

| | | | | | | | | | | | |
|---|------|--------|------|--------|------|-------|-------|-------|-------|--------|------|
| Between San Francisco and Kentfield ----- | 14.7 | \$0.35 | 2.38 | \$5 00 | 549 | ----- | ----- | ----- | ----- | \$3 00 | .443 |
| Between San Francisco and Fairfax ----- | 18.2 | .35 | 1.86 | 5 00 | .443 | ----- | ----- | ----- | ----- | 3 00 | .358 |

It will be noted from the foregoing statement that the one-way fare between San Jose and Saratoga is on a basis of 1.77 cents per mile, which is somewhat lower than the per mile basis in effect between San Jose and Los Gatos, via Campbell, which is 2.03 cents per mile. However, the one-way fare of 25 cents between San Jose and Los Gatos, likewise, applies via Saratoga, over a distance of 15.6 miles, and via this route the rate per mile is 1.65 cents.

While the 30-ride family six months commutation fare between San Jose and Los Gatos, via Campbell, is on a higher per mile basis than is the similar fare between San Jose and Saratoga, the 62-ride individual monthly commutation fare between San Jose and Los Gatos, via Campbell, is on a lower basis than is the similar fare between San Jose and Saratoga, all these fares between San Jose and Los Gatos apply also via Saratoga, by which route the per mile basis in every case is considerably lower than the per mile basis between San Jose and Saratoga.

A comparison with the Pacific Electric Railway fares between Los Angeles and Pasadena is not, in my opinion, unfavorable to the fares of the Peninsular Railway between San Jose and Los Gatos, for it will be noted that, although the one-way fare and the 30-ride family commutation fare is less, and the rate per mile therefor is less than in the case of the individual monthly commutation fare, the rate per mile between Los Angeles and Pasadena is considerably higher than the rate per mile for the similar ticket between San Jose and Los Gatos, either via Campbell or Saratoga. Again, the distance between Los Angeles and Pasadena is but 11.2 miles, while the distance between San Jose and Los Gatos, via Campbell, is 12.3 miles and, via Saratoga, 15.6 miles.

The traffic between Los Gatos and San Jose is not, in my opinion, comparable to the traffic between Los Angeles and Pasadena. In the latter case, the movement is between cities of considerable size, the smaller of which is as large as the larger of the cities involved in the movement between San Jose and Los Gatos. The complainant in this regard admitted that the traffic between Los Angeles and Pasadena was at least one hundred times in excess of the passenger traffic between San Jose and Los Gatos. While I have not at hand actual figures to substantiate the extent of this difference, I am satisfied from the records of this office that there is sufficient difference in the volume of the traffic and in other circumstances surrounding its transportation as to make the transportation conditions surrounding the movement from Los Angeles to Pasadena entirely dissimilar from those conditions surrounding the transportation between San Jose and Los Gatos.

As to the comparison with the fares between San Francisco and Fairfax, it will be noted that, while the rate per mile thereto is less

in both cases than the rate per mile between San Jose and Los Gatos via Campbell, the rate per mile between San Francisco and Kentfield, which point is also included in the zone in which the Fairfax rate is applicable, of both the one-way fare and the monthly commutation fare, is in excess of the rates per mile between San Jose and Los Gatos, via Saratoga, on similar tickets, and do not compare unfavorably with the rates per mile between San Jose and Los Gatos, via Campbell, being, in the case of the one-way fare, higher, and lower in the case of the monthly individual commutation fare.

Again, between San Francisco and Kentfield and Fairfax, there is a considerable volume of traffic, and I do not believe, viewing the comparisons and taking into consideration the amount of the traffic, that the rates between San Jose and Los Gatos are out of line therewith.

At the direction of the Commission, certain traffic and operating statistics were compiled by the defendant in regard to the relation of the San Jose-Los Gatos lines, as regards operation and revenue, to the entire line. A statement follows showing, for a period of two weeks commencing May 27, 1913, and ending June 9, 1913, inclusive, the number of passengers carried, the revenue thereon and the car miles and car hours on the part of the line between San Jose and Los Gatos as compared with the same elements on the entire line.

Statement Showing Car miles, Car hours, Number of Passengers and Revenue Thereon for Period of Two Weeks Commencing May 27, 1913, to June 9, 1913, Inclusive.

| | Car miles | Percentage | Car hours | Percentage | Number of passengers paying fare | Percentage | Revenue | Percentage |
|---|-----------|------------|-----------|------------|----------------------------------|------------|------------|------------|
| Between San Jose and Los Gatos via Campbell, including intermediate points----- | 7,278 | 17.40 | 533 | 13.45 | 18,578 | 18.35 | \$1,936 22 | 22.02 |
| Between San Jose and Los Gatos via Saratoga, including intermediate points----- | 9,327 | 22.30 | 683 | 17.25 | 24,443 | 24.14 | 2,323 80 | 26.42 |
| Between points on balance of line----- | 25,221 | 60.3 | 2,745 | 69.3 | 58,230 | 57.51 | 4,533 56 | 51.56 |
| Totals. ----- | 41,826 | 100.00 | 3,961 | 100.00 | 101,251 | 100.00 | \$8,793 38 | 100.00 |

It will be noted that on the line between San Jose and Los Gatos, via Campbell and via Saratoga, the car miles were 39.7 per cent of the total car miles and the car hours were 30.7 of the total car hours, while the number of passengers were 42.9 per cent of the total passengers carried on the entire line and the revenue thereon was 48.4 per cent of the revenue accruing to the entire line. In other words, that while the car miles and car hours were less on the lines between San Jose and Los Gatos, the number of passengers and the revenue thereon was greater as compared with the entire line, but it does not, from these figures, appear that the San Jose-Los Gatos lines are unduly burdened with the other lines.

The testimony of the defendant that it is operating its entire line at a loss is uncontroverted and from the exhibit offered in this case and from the records on file in the office of the Commission, it appears that there is a deficit of from \$8,000.00 to \$12,000.00 per month. As suggested by the complainant, this deficit may, to a large extent, be brought about by the payment of interest on outstanding stocks or bonds which do not represent actual values, but in the absence of any information or evidence to support such a statement it is obviously of small use. The Commission's valuation of this property had not proceeded far enough to enable it to form its conclusions in regard thereto and ascertain therefrom some idea of the proper capitalization of this line.

While it would, no doubt, as the complainant contends, be to the advantage of the residents and property owners of Los Gatos and intermediate territory to secure reductions in the present fares, and in the end might prove beneficial to the railroad itself, if the carrier is unwilling to experiment in this regard it does not follow that this Commission should adjust the fares so as to bring about this result, this Commission being empowered only to prescribe just and reasonable rates. The carrier should, in this regard, at least, adjust its fares so that all discrimination between persons and localities be entirely eliminated, and should provide, in so far as possible, relative rates for the various classes of service, which relation should generally be maintained without discrimination.

From a consideration of all of these matters I am led to the conclusion that the facts do not sustain the complaint and recommend that it be dismissed.

I therefore submit the following form of order:

ORDER.

Richard F. Robertson having filed a complaint against the Peninsular Railway Company and a hearing having been held and being fully apprised in the premises, and the Commission being of the opinion that the facts do not sustain the complaint,

It is hereby ordered that the said complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of July, 1913.

DECISION No. 766.

IN THE MATTER OF THE APPLICATION OF FRANK P. CADY AND RILLA E. CADY, CO-PARTNERS, OWNERS OF SUSANVILLE WATER WORKS, FOR AN ORDER AUTHORIZING THE ISSUE OF A NOTE OR NOTES, SECURED BY MORTGAGE UPON THE WATER SYSTEM OF PETITIONERS, IN THE TOTAL SUM OF TEN THOUSAND DOLLARS.

Decided July 1, 1913.

Application No. 418.

Application of Frank P. and Rilla E. Cady for permission to issue promissory notes in the sum of \$10,000, proceeds to be used for improvements to Susanville Water Works. *Held*, application granted.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Frank P. Cady and Rilla E. Cady, for an order authorizing the issuance of a promissory note in the principal sum of \$10,000.00, heretofore executed by said Frank P. Cady and Rilla E. Cady in favor of Mrs. Millie Alexander, and for an order authorizing the execution of a mortgage upon the Susanville Water Works to secure the payment of said promissory note.

The property here involved is owned by applicants and consists of a water producing and distributing system in and about the town of Susanville.

No valuation of the property of applicants has been made by the Commission, but applicants submit a statement claiming a value of \$43,935.23, and while I do not find this is the real value of the property of applicants, I am satisfied that there is sufficient security to warrant the issuance of the note herein asked to be authorized.

Indebtedness has been incurred from time to time for purposes properly chargeable to capital account, and the \$10,000.00 note herein asked

to be authorized represents a consolidation of all the indebtedness of applicants.

The note and mortgage herein asked to be authorized were executed, or attempted to be executed, by applicants on July 19, 1912, but this was contrary to the Public Utilities Act, and of course, void without the authorization of this Commission. I am satisfied that there was no intention to evade the provisions of said act.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California for an order authorizing Frank P. Cady and Rilla E. Cady, co-partners, to issue a promissory note in favor of Mrs. Millie Alexander for the principal sum of \$10,000.00, with interest at the rate of 7 per cent per annum, and for an order authorizing the execution by said applicants of a mortgage in favor of said Mrs. Millie Alexander on all of that certain property known as the Susanville Water Works, more particularly described in Exhibits 1 and 2, attached to the application herein, and a hearing having been held, and it appearing to the Commission that the money secured by the issue of said promissory note, secured by said mortgage is necessary and reasonably required by said company for the discharge of its obligations, and that the purposes for which the proceeds of said note are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Frank P. Cady and Rilla E. Cady of a promissory note of the face value of \$10,000.00, bearing interest at the rate of 7 per cent per annum, dated July 19, 1912, payable two years after date, in favor of Mrs. Millie Alexander, and it does further authorize said Frank P. Cady and Rilla E. Cady to execute a mortgage in favor of said Mrs. Millie Alexander on that certain property known as the Susanville Water Works, which is more particularly described in Exhibits 1 and 2, on file with the application herein, reference to which is hereby made.

This order is made upon the following conditions:

1. Frank P. Cady and Rilla E. Cady shall receive for the promissory note hereby authorized the full face value thereof, and shall use the proceeds for the purpose of discharging and paying the indebtedness described in the application herein.

2. Frank P. Cady and Rilla E. Cady shall immediately upon the issuance of this order, file with the Commission satisfactory evidence that all of the indebtedness, except the \$10,000.00 of indebtedness hereby authorized, has been satisfied, paid and discharged.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of July, 1913.

DECISION No. 767.

IN THE MATTER OF THE APPLICATION OF HONEY LAKE
VALLEY MUTUAL TELEPHONE ASSOCIATION FOR PER-
MISSION TO MAKE AND ISSUE ITS PROMISSORY NOTE
IN THE SUM OF TEN THOUSAND DOLLARS.

Application No. 419.

Decided July 2, 1913.

Application of Honey Lake Valley Mutual Telephone Company for authority to issue promissory note in the sum of \$10,000.00, proceeds to be used to discharge indebtedness now owing by this company. *Held*, application granted.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Honey Lake Valley Mutual Telephone Association for an order authorizing the issue by said association of a promissory note in the principal sum of \$10,000.00 with interest thereon at the rate of seven per cent per annum, payable semiannually, said note to be payable on or before ten years after its date, and to be made in favor of F. B. Hoffman; and for an order authorizing the execution by said association as security for the payment of said note, a mortgage upon all of its system, including all of its pole lines, equipment, franchises, rights of way and real property.

Applicant is a corporation operating a telephone system in Honey Lake Valley, county of Lassen, State of California, and has an authorized capital stock of \$10,000.00, all of which has been issued.

Applicant received on the sale of its capital stock \$9,000.00, which money was invested in its telephone system. In addition applicant borrowed from said F. B. Hoffman a total of \$10,000.00, all of which money was invested in betterments and additions to plant.

Applicant issued notes to said F. B. Hoffman as evidence of its indebtedness to him after the Public Utilities Act went into effect, hence such notes are void.

It is evident that there was no intention to evade the provisions of the Public Utilities Act, and immediately upon that law being called to the attention of the officers of applicant, this application was filed.

It appears from the evidence that the \$10,000.00 owed F. B. Hoffman, and which it is proposed to evidence by the promissory note herein asked to be authorized, was invested in the plant of applicant, and inasmuch as the effect of granting this application would be to permit applicant to have ten years within which to pay this indebtedness, I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California for an order authorizing Honey Lake Valley Mutual Telephone Association to issue its promissory note in the principal sum of \$10,000.00, with interest thereon at the rate of seven per cent per annum, payable semiannually, said note to be payable on or before ten years after its date and to be made payable to F. B. Hoffman; and for an order authorizing the execution by applicant of a mortgage upon all of its system to secure the payment of said note, and a hearing having been duly held, and it appearing to the Commission that the money to be secured by the issue of said note is necessary and reasonably required by said company for the discharge of its obligations, and that the purposes for which the proceeds of the issuance of said note are to be used are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Honey Lake Valley Mutual Telephone Association of a promissory note in the principal sum of \$10,000.00, bearing interest at the rate of seven per cent per annum, payable on or before ten years from its date; and said company is further authorized to mortgage all of its system, including pole lines, equipment, franchises, rights of way and real property as security for the payment of said note.

Said note to be issued upon the following conditions, not otherwise:

1. Before its execution there shall be submitted to this Commission for its approval the note and mortgage herein authorized to be executed.
2. The proceeds from the issuance of said promissory note shall be used for the following purpose only: To discharge the indebtedness now owing by said company to said F. B. Hoffman in the sum of \$10,000.00.
3. Within thirty days from the date of this order applicant shall furnish to the Commission satisfactory evidence that all evidences of indebtedness, except that herein authorized, heretofore given to F. B. Hoffman, shall be canceled and destroyed, and that the indebtedness

evidenced by the note herein authorized is the only indebtedness owed by said company to said F. B. Hoffman.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of July, 1913.

DECISION No. 768.

IN THE MATTER OF THE APPLICATION OF THE BEAUMONT GAS AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES AND OTHER EVIDENCES OF INDEBTEDNESS SECURED BY MORTGAGE, OR DEED OF TRUST.

Application No. 479.

Decided July 2, 1913.

Application of the Beaumont Gas and Power Company for authority to issue promissory note in the sum of \$5,000.00, proceeds to be used to take up note of a like amount dated January 3, 1910. *Held*, application granted.

H. L. Carnahan, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Beaumont Gas and Power Company for an order authorizing the issuance by said company of a promissory note in the principal sum of \$5,000.00 with interest at the rate of eight per cent per annum, said note to be payable at a date to be hereafter fixed in 1918, or at the option of the payee to be payable on a date in 1916; and for an order authorizing the execution of a trust deed conveying the property of applicant to secure the payment of said promissory note.

The financial condition of applicant is as follows:

| | |
|--|-------------|
| Authorized common capital stock, all of which has been issued | \$25,000 00 |
| Indebtedness evidenced by promissory note secured by deed of trust ----- | 5,000 00 |
| Indebtedness evidenced by unsecured promissory note----- | 1,000 00 |
| Indebtedness evidenced by unsecured promissory note----- | 600 00 |

The secured promissory note of \$5,000.00 now outstanding will become due January 5, 1915. This indebtedness draws interest at the rate of eight per cent per annum, the same rate which it is proposed to pay

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for the money obtained from the note herein asked to be authorized, and the effect of granting this application will be to postpone the payment of the principal of this indebtedness at least one year, and with the consent of the payee three years.

The money represented by the \$5,000.00 which it is proposed to pay with the proceeds of the note herein asked to be authorized, was expended for extensions and additions to the plant of applicant, and may be properly capitalized.

Applicant is engaged in the business of generating and distributing gas in and about the town of Beaumont, county of Riverside, and while no exact determination may be had as to the value of applicant's plant which will be security for the payment of the proposed note, it is evident that there is sufficient property to secure the payment of the same, and furthermore, it is reasonable to expect that applicant's revenue will permit the payment of interest on its existing indebtedness, including that herein proposed.

I therefore recommend that the application be granted, and submit herewith the following form of order.

ORDER.

Application having been made to the Railroad Commission of the State of California for an order authorizing the issue by Beaumont Gas and Power Company of a promissory note in the principal sum of \$5,000.00 with interest at the rate of eight per cent per annum, and for an order authorizing the conveyance of all of the property of applicant as security for the payment of said note, and a hearing having been duly held, and it appearing to the Commission that the money to be secured by the issue of said note is necessary and reasonably required by said company for the discharge of its obligations, and that the purposes for which the proceeds of the issuance of said note are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Beaumont Gas and Power Company of a promissory note in the principal sum of \$5,000.00 with interest at the rate of eight per cent per annum, said note to be payable on a date in 1918, the payee of said note to have the option of demanding payment of principal and interest on a date in 1916, and said Beaumont Gas and Power Company is further authorized to execute a trust deed conveying all of its property as security for the payment of said note.

Said note to be issued under and in pursuance of the terms of a trust deed substantially in the form of a copy of the proposed trust deed attached to the application herein, and said promissory note to be

in substantially the same form as a copy of the proposed note attached to the application herein, upon the following conditions, not otherwise:

1. Beaumont Gas and Power Company shall realize full face value for said promissory note and the proceeds thereof shall be used for the following purpose only:

To pay off and discharge that certain indebtedness of \$5,000.00 evidenced by a promissory note dated January 5, 1910, and secured by a deed of trust dated January 5, 1910, made by the Beaumont Gas and Power Company, as grantor, to the Riverside Title and Trust Company, as trustee, recorded in the office of the county recorder of the county of Riverside, State of California, on the 13th day of January, 1910, in Book 293 of Deeds, at page 348 *et seq.* thereof.

2. Said company shall within thirty days from the date of this order, furnish the Commission with satisfactory evidence that the indebtedness of \$5,000.00 evidenced by promissory note as above described, has been paid off and discharged.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of July, 1913.

Decision No. 769, grade crossing; not printed. See end of volume.

DECISION No. 770.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE, SELL AND DELIVER THIRTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 526.

Decided July 2, 1913.

Application of Southern California Edison Company for permission to issue 30,000 shares of its common stock to be sold at 80. *Held*, application granted under certain conditions.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern California Edison Company for

an order authorizing the issue of 30,000 shares of its common **capital** stock of the par value of \$100.00 each.

The condition of the capitalization of applicant is as follows:

| STOCK. | |
|---------------------|----------------|
| Preferred stock : | |
| Authorized ----- | \$4,000,000 00 |
| Issued ----- | 4,000,000 00 |
| Common stock : | |
| Authorized ----- | 26,000,000 00 |
| Issued ----- | 8,400,000 00 |
| BONDS OF APPLICANT. | |
| Authorized ----- | 30,000,000 00 |
| Issued ----- | 10,717,000 00 |
| Underlying bonds : | |
| Authorized ----- | 12,825,000 00 |
| Issued ----- | 3,903,000 00 |

All of the underlying issues have been closed.

Applicant is engaged in the business of producing, generating, transmitting and distributing electricity and gas for light, heat, and power. It owns and operates gas plants in the city of Pomona, the city of Venice, and a portion of the city of Los Angeles, and the electric energy generated at its various plants is distributed and used for light, heat, and power in various cities and towns and in unincorporated territory outside of cities, within the counties of Kern, Los Angeles, Orange, Riverside, and San Bernardino. For the purpose of furnishing such electric energy, applicant owns and operates various hydro-electric and steam-electric generating plants with transmission systems connecting such plants with its distributing systems.

It is impossible to determine at this time the value of applicant's plant, but it is evident from the statement of the earnings of applicant that it is in a very prosperous condition.

For the fiscal year ending December 31, 1912, its net revenues, not including depreciation deductions, were \$2,011,414.90; deducting for interest and fixed charges \$708,796.10, leaves \$1,302,618.80. Five per cent on the dividends of the outstanding stock amounting to \$620,000.00 was paid, which leaves \$682,618.80 surplus.

The purposes to which the money derived from the sale of the stock herein asked to be authorized are to be put are:

1. For the payment and discharge of debentures of the par value of \$332,000.00.

2. For the payment and discharge of certain of its floating unsecured indebtedness, which is specified in Exhibit C, amounting to the sum of \$1,289,511.52.

3. From time to time for the purpose of paying 25 per cent of the cost of acquisition and installation of betterments and additions to applicant's plant and facilities, as shown in the order of this Commis-

sion made in application No. 350; said 25 per cent being the difference between the cost of said betterments and additions and the proportion of said cost for which applicant is entitled to have bonds issued and certified under the trust indenture dated November 1, 1909.

The proceeds from the sale of the debentures mentioned in the first-named purpose were used for acquiring property and adding extensions, additions, and permanent improvements to plant of applicant.

The floating indebtedness mentioned in the second of the purposes hereinabove stated is represented by promissory notes totaling \$1,010,000.00, and accounts payable of \$279,511.52. All of the money represented by this floating indebtedness was used for the purpose of acquiring property and the additions, extensions and improvements of applicant's plant.

The third purpose represents the difference between the property or money produced by applicant and the face value of bonds certified by the trustee under the indenture upon which bonds are issued. Where applicant is only permitted to issue bonds representing 75 per cent of the additions to property there remains 25 per cent of money expended in property which can not be obtained from the sale of bonds and it becomes necessary to provide this sum from some other source. The request here is that this money be provided by the sale of stock and in effect the granting of this request would result in the production of \$1,000.00 of property, and the issuance against said \$1,000.00 of property of \$750.00 of bonds, and assuming that the stock is sold at 80, of approximately \$300.00 of stock.

This is a proper method of supplying money with which to make up the difference between the amount of bonds permissible under applicant's trust deed and the property added to plant. Clearly to take such a sum from income would either reduce the net income of applicant below a reasonable figure or would burden the consumers with an amount which is really not properly chargeable against income, but is a capital charge. Hence, to produce such money from the sale of stock and thus capitalize it, is proper.

Applicant requests that as to 20,000 of the 30,000 shares of stock herein asked to be authorized, it be allowed to pay an underwriting fee or commission of \$2.50 per share. It is proposed that a syndicate agree to purchase all of said 20,000 shares of stock at \$80 per share, or so much of said stock as is not subscribed for by the present stockholders of applicant. For this purpose it is proposed to pay such syndicate \$2.50 per share and this commission seems to me reasonable. Under present conditions a sale of applicant's stock at \$80 per share is a good sale and to bring this about \$2.50 per share is not an unreasonable sum, as it may be that the syndicate will be compelled to take all or a large part of such issue.

As to the remaining 10,000 shares, applicant requests that it be allowed to sell them at 80 without paying a commission.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Southern California Edison Company for an order authorizing the issue by said company of 30,000 shares of its common capital stock, par value \$100.00 per share, and a hearing having been duly held, and it appearing to the Commission that the money to be secured by the issue of said stock is necessary and reasonably required by said company for the discharge of its obligations and for the construction, completion, extension and improvement of its facilities, and that the purposes for which the proceeds of the sale of said stock are to be used, are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Southern California Edison Company of 30,000 shares of its common capital stock of the par value of \$100.00, or so much thereof as may be necessary for the purposes set out herein.

Said stock is to be issued upon the following conditions, not otherwise:

1. Southern California Edison Company shall sell the stock hereby authorized so as to net said company not less than 80 per cent of the par value thereof, provided that if an agreement be entered into whereby 20,000 shares of said stock shall be underwritten, that is to say, that an agreement be made by responsible parties that they will take all of said 20,000 shares of stock at 80 per cent of their par value, or so much thereof as may not be subscribed for at such price by the stockholders of applicant, then applicant may pay such persons entering into such agreement the sum of \$2.50 per share as commission, said commission to be paid when said stock is purchased.

2. The proceeds from the sale of said stock shall be used for the following purposes only:

a. For the payment of the floating indebtedness of applicant, consisting of promissory notes in the total sum of \$1,010,000.00, said promissory notes being the following:

| Favor of— | Amount | Date due |
|---|-----------------------|--------------------|
| First National Bank of Los Angeles..... | \$175,000 00 | August 29, 1912. |
| First National Bank of Santa Barbara..... | 15,000 00 | November 28, 1912. |
| General Electric Company..... | 30,000 00 | *May 20, 1913. |
| General Electric Company..... | 40,000 00 | *June 30, 1913. |
| Los Angeles Trust and Savings Bank..... | 125,000 00 | May 25, 1913. |
| Los Angeles Trust and Savings Bank..... | 25,000 00 | May 25, 1913. |
| Ourselves..... | 250,000 00 | June 26, 1913. |
| General Electric Company..... | 30,000 00 | *July 20, 1913. |
| General Electric Company..... | 20,000 00 | *August 21, 1913. |
| Continental and Commercial National Bank | 100,000 00 | October 22, 1913. |
| Bankers Trust Company..... | 100,000 00 | September 1, 1913. |
| The National Bank of the Republic..... | 30,000 00 | November 5, 1913. |
| First Trust and Savings Bank..... | 70,000 00 | November 4, 1913. |
| | \$1,010,000 00 | |

*On or before.

and accounts payable in the sum of \$279,511.52.

b. For the payment and discharge of debentures of applicant in the amount of \$332,000. Said debentures having been issued under an agreement dated April 1, 1911, between Southern California Edison Company and Los Angeles Trust and Savings Bank, trustee, a copy of said agreement being on file with the application herein.

c. From time to time for the purpose of paying 25 per cent of the cost of the acquisition and installation of betterments and additions to applicant's plant and facilities as shown in detail in the order made by this Commission, dated January 27, 1913, in Application No. 350; said 25 per cent being the difference between the cost of said betterments and additions and the proportion of said cost for which applicant is entitled to have bonds issued and certified, under the trust indenture dated November 1, 1909.

3. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

4. The effectiveness of this order is conditioned on the prior payment of the fee specified in section 57 of the Public Utilities Act.

5. The authority hereby given to issue such stock shall apply only to stock issued by said company on or before the 30th day of June, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of July, 1913.

DECISION No. 771.

IN THE MATTER OF THE APPLICATION OF THE OAKLAND,
ANTIOCH AND EASTERN RAILWAY FOR AUTHORITY
TO ISSUE ONE MILLION DOLLARS IN BONDS.

Application No. 608.*Decided July 2, 1913.*

Application of Oakland, Antioch and Eastern Railway Company for permission to issue \$1,000,000.00 face value five per cent thirty-year bonds, proceeds to be used in completing road from Bay Point to Sacramento.

Held, That applicant raise from stock such money as may be necessary to take care of any deficit accruing from early periods of operation.

Held, Application granted, under certain conditions.

Jesse H. Steinhart, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by Oakland, Antioch and Eastern Railway for authority to issue \$1,000,000.00 of its first mortgage five per cent thirty-year bonds and to use the proceeds for the completion of its line of railway from Bay Point, Contra Costa County, to Sacramento, a distance of 62.57 miles.

Applicant is constructing a standard gauge electric railway over this route through portions of Contra Costa, Solano, Yolo and Sacramento counties, with a branch from Bay Point to Antioch, and expects to place it in operation in August of this year.

It owns 34,700 shares of the 35,000 shares of capital stock of the Oakland and Antioch Railway, which runs from Oakland to Bay Point. The Oakland and Antioch Railway, under agreement with the San Francisco, Oakland and San Jose Consolidated Railway, uses a portion of the latter's electric railway system in Oakland, its pier and ferry boats and thereby obtains an entrance into the city of San Francisco. Oakland, Antioch and Eastern Railway also owns the capital stock of the San Ramon Valley Railroad, which operates from Walnut Creek to Danville, a distance of 9 miles.

Through direct ownership, stock ownership and by traffic agreement, therefore, Oakland, Antioch and Eastern Railway control a line of railway extending from San Francisco Bay, with terminals in San Francisco and Oakland, to Sacramento, with branches extending to Antioch and to Danville. The railway line is approximately 100 miles in length and will be operated entirely by the Oakland, Antioch and Eastern Railway.

This entire enterprise had its inception in January, 1909, with the formation of the Oakland and Antioch Railway with an issue of 35,000 shares of stock. This company built its line to Bay Point, which is now being operated. It issued bonds to the amount of \$2,000,000.00.

On March 28, 1911, Oakland, Antioch and Eastern Railway was incorporated with an authorized issue of stock consisting of 100,000 shares of the par value of \$100.00, or a total of \$10,000,000.00 and an authorized bond issue in the sum of \$5,000,000.00. It proceeded to acquire the stock of Oakland and Antioch Railway by issuing two shares of its stock for one and later issued the balance of its stock. It has issued \$2,500,000.00 of bonds. It has placed \$500,000.00 of bonds on a contract and holds in its treasury \$2,000,000.00 of bonds. It now asks for the authority of this Commission to issue \$1,000,000.00 of the bonds remaining in its treasury.

San Ramon Valley Railroad is now in process of construction. It has issued \$100,000.00 of bonds.

We find, therefore, treating these related enterprises as a unit, that, if the authorization herein requested be granted, there will be outstanding against these properties bonds to the total amount of \$6,100,000.00. While the present application is merely for authority to issue \$1,000,000.00 in bonds, it becomes necessary for the Commission to inquire into the general condition, physically and financially, of these properties.

It appears that the Oakland and Antioch and the Oakland, Antioch and Eastern Railways have been built, with the exception of certain small initial costs, from the proceeds from the sale of bonds. The applicant and the Oakland and Antioch Railway sold small quantities of bonds at par, but a very large proportion of the issue was sold at 85. In addition, a commission of $2\frac{1}{2}$ per cent of par was paid. Applicant, therefore, received in money $82\frac{1}{2}$ per cent of the face value of its bonds.

It is in evidence that the sale of the \$1,000,000.00 in bonds now requested will not provide the entire amount of money necessary to complete the line. The company will still have a floating indebtedness, which would probably be not less than \$300,000.00, and perhaps considerably more. Applicant retains in its treasury \$1,000,000.00 of bonds for future financing.

In connection with its application, applicant submitted a statement placing the "original cost" of its properties at \$3,707,330.00 and the reproduction value as \$4,390,523.00. It submitted as the original cost of the Oakland and Antioch Railway a statement showing a total of \$2,202,022.55 and a statement of reproduction value of \$2,730,397.00.

These figures give a combined "original cost" of \$5,909,352.55 and a total "reproduction value" of \$7,120,920.00.

While I am not able to agree with applicant's estimates of reproduction value, I find that there has been beyond doubt a great increase in real estate values in sections traversed by applicant's railway and no doubt a certain amount of this is reflected in the rights of way.

Evidence was introduced on behalf of Oakland, Antioch and Eastern Railway for the purpose of demonstrating that it would, very early in its career, develop an earning capacity sufficient to take care of its necessities. While it is clear that this line of railway has been advantageously located and carefully constructed, estimates of future earnings must necessarily be estimates only.

This Commission must take a situation as it finds it, although that situation may not be such as it would in the first instance have authorized. We find here a line of railroad constructed from bonds and at this time more than 90 per cent completed and about 90 per cent financed. I am firmly of the belief that the necessary expenditures to complete the remaining 10 per cent of construction will give to the enterprise a worth far beyond its proportion of the whole. In other words, I find that the expenditure of the remaining \$1,000,000.00 toward completing and equipping the railroad and to put it in first class condition for operation will serve to knit together the various portions of this property and to place them on a basis where they can become revenue producing to their maximum degree. It is in view of this fact—that the expenditure of this remaining \$1,000,000.00 to complete the road will put the whole enterprise in a far better condition than we now find it—that I am willing to recommend that this application be granted.

I desire at the same time, however, to call attention again to what has been said repeatedly by this Commission: that public utility enterprises should be financed not alone from bonds, but both from bonds and stock.

While I recommend that this application be granted, I do so only upon certain conditions. Applicant herein will begin operations with a floating indebtedness incident to its construction costs. It is more than probable that in the early stages of its operation it will be under the necessity of further extending its credit to take care of at least a portion of its ordinary operating expenses, taxes and bond interest.

This Commission should be assured that at least such financing as may be necessary to take care of any deficit that may accrue from the early period of operation will be cared for from stock. To this end, I recommend that the applicant herein be required to file a statement satisfactory to this Commission that it will, during the year 1916, raise from its stock, if this Commission should so direct, such

money as may be necessary to wipe out any deficit accruing from the present time from operation, maintenance, repairs, taxes and bond interest. I fix the time as 1916, for the reason that the sinking fund provisions provided in the mortgage of the Oakland and Antioch Railway begins to operate in that year.

I am further persuaded to recommend the granting of this application upon the conditions enumerated by reason of the heavy sinking fund in the mortgages of both the Oakland and Antioch Railway and the Oakland, Antioch and Eastern Railway.

I find that the two sinking funds provide for the retirement of 43.5 per cent of the combined bond issues during the life of these issues. The combined sinking fund provisions call for the retirement of bonds as follows:

| | |
|------------------------------|---------------------|
| 1916 ----- | \$15,000 00 |
| 1917 ----- | 15,000 00 |
| 1918 to 1925, inclusive----- | 50,000 00 per year |
| 1926 to 1927, inclusive----- | 70,000 00 per year |
| 1928 to 1935, inclusive----- | 110,000 00 per year |
| 1936 to 1937, inclusive----- | 150,000 00 per year |
| 1938 to 1940, inclusive----- | 235,000 00 per year |
| 1941 ----- | 160,000 00 |

There will be retired, therefore, under these mortgages, bonds to the amount of \$2,615,000.00 out of the whole issue of \$6,000,000.00. The proportion will, of course, be less when the additional \$1,000,000.00 of bonds of the Oakland, Antioch and Eastern Railway shall have been issued.

It is my belief that this sinking fund is unduly severe, but it is in view of this fact, and in view of the further fact that the issue of these bonds would improve the condition of this applicant, that I am willing to recommend that the application be granted without requiring in addition that a certain portion of the amount needed be raised from stock.

Applicant stated that it had placed \$500,000.00 of its bonds on contract and some uncertainty was expressed whether these bonds were actually issued under the terms of the Public Utilities Act. In order to obviate any misunderstanding on this point, applicant's attorney stipulated that before it finally placed these bonds it would submit the question of their issue to the Commission for determination. The hearing upon the present application included also the \$500,000.00 of bonds in question and the authorization to issue the \$1,000,000.00 of bonds as applied for assumes that there will be an early determination of the status of the \$500,000.00 of bonds above mentioned.

The applicant submitted a detailed statement of its expenditures covering its entire properties, marked "Exhibit B," and a detailed statement of its accounts and notes payable, marked "Exhibit L."

I find that the items which make up the detailed statement of cost are proper and reasonable.

The applicant herein has sold most of its bonds so as to net 82½ per cent of their face value. It asks, however, that the order in this case fix a minimum of 80. It asks also that authority be given to pledge the bonds as collateral and requests that it be authorized to issue notes which shall be for not less than 60 per cent of the face value of the collateral.

I find that the purposes for which the applicant herein desires to expend the proceeds from the sale of the said \$1,000,000.00 of bonds are reasonable and not chargeable to operating expenses or to income.

I recommend the following form of order:

ORDER.

Oakland, Antioch and Eastern Railway having made application to this Commission for authority to issue \$1,000,000.00 of its first mortgage five per cent bonds under its mortgage and deed of trust to Union Trust Company of San Francisco, dated October 1, 1911, a copy of which is on file with this Commission in the application herein, and marked "Exhibit A," to which reference is hereby made, and its amended mortgage and deed of trust to Union Trust Company of San Francisco, marked "Exhibit G," said bonds maturing in 1941; and a hearing having been held, and it appearing that the purposes for which said Oakland, Antioch and Eastern Railway proposes to issue said bonds are not, in whole or in part, chargeable to operating expenses or to income,

It is hereby ordered that Oakland, Antioch and Eastern Railway be given authority, and it is hereby given authority, to issue \$1,000,000.00 of its first mortgage five per cent bonds under said mortgage and deed of trust to Union Trust Company of San Francisco, a copy of which is on file with this Commission in the application herein and marked "Exhibit A," and under said amended mortgage and deed of trust, a copy of which is on file with this Commission and marked "Exhibit G," said authority to be upon the following conditions and not otherwise:

1. Oakland, Antioch and Eastern Railway, through its board of directors, shall file with this Commission a stipulation, in form satisfactory to this Commission, that it will, during the year 1916, if so directed by this Commission, raise from assessment upon its stock a sum of money sufficient to extinguish any deficit that may have accrued in the operation, maintenance, taxes and bond interest of said railway.

2. Oakland, Antioch and Eastern Railway shall sell said bonds so as to net not less than 80 per cent of the face value thereof plus accrued interest thereon.

3. Oakland, Antioch and Eastern Railway shall use the proceeds from the sale of said bonds for the purpose of completing its line of railway from Bay Point, Contra Costa County, to Sacramento, Sacramento County, and in the completion of its branch line from Bay Point to Antioch, Contra Costa County, and for such items and substantially for such amounts as are set forth as "original cost" in applicant's "Exhibit B" filed with the application herein and, more specifically, accounts payable and notes payable, as per applicant's list filed with this Commission in the application herein, as per "Exhibit L," and particularly as follows:

| | |
|------------------------|---------------------|
| Accounts payable ----- | \$331,311 06 |
| Notes payable ----- | 553,084 48 |
| Total ----- | <u>\$884,395 54</u> |

4. *It is further ordered* that Oakland, Antioch and Eastern Railway be given authority, and it is hereby given authority, to pledge as collateral security said \$1,000,000.00 of bonds herein authorized to be issued, or any part thereof, as collateral security for notes it may issue upon the following conditions and not otherwise:

(a) The face value of said note or notes shall be not less than 60 per cent of the face value of such bonds as may be pledged as collateral security. The proceeds from said notes shall be applied to the same purposes as it is herein provided that the proceeds from the sale of the \$1,000,000.00 in bonds herein authorized shall be used.

(b) Applicant herein shall file with this Commission a list of such notes as it may issue upon the collateral security of the bonds herein authorized and it shall net the face value of said notes and the interest thereon shall not exceed seven per cent.

5. Oakland, Antioch and Eastern Railway shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale or pledge of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month it shall make verified reports to the Commission, stating the sale or sales or pledge of said bonds during the preceding month, the terms and conditions of sale or pledge, moneys or properties realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority hereby given to issue bonds or to pledge said bonds as collateral security shall apply only to such bonds as may be issued or pledged prior to June 30, 1914.

7. The authority hereby given to issue or pledge bonds is contingent upon the payment of the fee provided in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered

filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of July, 1913.

DECISION No. 772.

P. A. FROELICH

vs.

LOS ANGELES RAILWAY CORPORATION.

Case No. 370.

Decided July 2, 1913.

Complainant alleges discrimination in passenger rates of Los Angeles Railway Corporation between Los Angeles and Vermont Heights. *Held*, that one-way fare of 10 cents is fair rate; that 30-ride family commutation ticket be reduced from \$2.70 to \$1.50.

P. A. Froelich, Esq., in propria persona.

S. M. Haskins, Esq., for the Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

In this case the complainant attacks the passenger fares of the Los Angeles Railway Corporation between the city of Los Angeles and Vermont Heights as excessive, unreasonable, and discriminatory, and asks that a fare of five cents with transfer privileges be established between Vermont Heights and the city of Los Angeles.

The rates of the defendant at present are as follows:

One-way fare between Vermont Heights and the city of Los Angeles ten cents, made up of five cents between any point in Los Angeles and Manchester avenue and five cents from Manchester avenue to Vermont Heights.

The following adult commutation rates are in effect:

| | |
|--|-------|
| 10-ride party ticket..... | \$ 90 |
| 30-ride family commutation ticket..... | 2 70 |
| 52-ride individual monthly commutation ticket..... | 3 75 |

The lines of the defendant serving Vermont Heights are on either side of what is known as the "Shoe String Strip" and do not operate west of Manchester avenue within the corporate limits of the city of Los Angeles.

The complainant bases his claim for a fare of five cents between the city of Los Angeles and Vermont Heights on the fact that the defendant

operates certain of its street car lines without the city of Los Angeles at a fare of five cents, and that the distances beyond the boundary line of Los Angeles to the terminus of these lines are in some cases greater than the distance from Manchester avenue to Vermont Heights. The boundaries of the city of Los Angeles are not at all regular in shape, consequently a line in one direction might reach a considerable distance beyond the city limits and at the same time the terminus thereof be a shorter distance from the center of population in Los Angeles than would a line operating in the other direction wholly within the city. Take for example the line to Huntington Park: There is no doubt that the distance from the city limits to the end of the Huntington Park line is greater than the distance from Manchester avenue to Vermont Heights; at the same time, because of the irregular boundary lines of Los Angeles, Huntington Park is much nearer the center of population of Los Angeles.

It must be apparent to anyone who will study the transportation map of the city of Los Angeles that in no case does the defendant maintain a five-cent fare with transfer privileges to any point which is the same distance from the business center of Los Angeles as Vermont Heights. Because a city annexes adjoining territory making its boundary lines extremely irregular it does not follow that a street railway system should be required to always extend its five-cent fare zone to conform to the new boundary lines.

Complainant has not sustained his claim for a fare of five cents with transfer privileges between Vermont Heights and the city of Los Angeles. Discrimination undoubtedly exists in favor of other sections served by the defendant in the matter of commutation rates, and for the same reasons as were pointed out in our decision in Case No. 337, *City of Inglewood vs. Los Angeles Railway Corporation et al.*, we must hold that passengers from Vermont Heights are entitled to the same commutation rates as are in effect between Eagle Rock and Los Angeles. Drawing a circle from either the assumed center of population of Sixth and Main streets or Twelfth and Main streets, Los Angeles, it will be found that the distances are approximately the same to Eagle Rock, Annandale, Inglewood, and Vermont Heights. We know of no just reason why the defendant should grant lower commutation rates to Eagle Rock and one-way fares from Annandale without transfer privileges, which are equivalent to the commutation rates between Eagle Rock and Los Angeles, on any lower basis than are in effect between Vermont Heights and Los Angeles.

I therefore find as a fact that a just and reasonable commutation fare for the transportation of adult passengers between Vermont Heights and the city of Los Angeles is \$1.50 for a 30-ride family com-

mutation ticket without transfer privileges, and recommend the following order:

ORDER.

P. A. Froelich having filed a complaint against the Los Angeles Railway Corporation alleging that passenger fares between Vermont Heights and the city of Los Angeles are excessive, unreasonable, and discriminatory, and a regular hearing having been held and basing its conclusions on the finding of fact as set out in the opinion preceding this order,

It is hereby ordered that the defendant publish and file with this Commission within twenty (20) days from the effective date of this order passenger tariffs establishing a commutation fare of \$1.50 for a 30-ride family commutation ticket without transfer privileges, which fare is hereby found to be just and reasonable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of July, 1913.

DECISION No. 773.

CITY OF INGLEWOOD

vs.

LOS ANGELES RAILWAY COMPANY, AND LOS ANGELES
RAILWAY CORPORATION.

Case No. 337.

Decided July 2, 1913.

Complaint of the city of Inglewood against the passenger rates of the Los Angeles Railway Corporation.

Held. That discrimination exists in rates of this company in favor of Eagle Rock as against Inglewood; that one-way fares between Inglewood and Los Angeles be reduced from 15 cents to 10 cents with transfer privileges, and 30-ride family commutation tickets from \$3.00 to \$1.50.

Robert Young, Esq., for Complainant.

S. M. Haskins, Esq., for Defendants.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

In this complaint the city of Inglewood, a municipal corporation, attacks the rates of the defendant corporation, the Los Angeles Railway

Company and Los Angeles Railway Corporation, as being unjust, unreasonable and discriminatory in favor of other communities similarly situated, so far as distance is concerned, from the center of population of the city of Los Angeles.

The defendants operate the principal street railway system serving the city of Los Angeles and in some cases its lines have been extended to points without the corporate limits of the city. The municipal limits of Los Angeles are not at all regular, so that in many instances the service of the lines of the defendants extends beyond the city limits; and because of the irregular boundary lines of the city it will be found that some of the lines running beyond the boundaries of the city are of much shorter length between the terminus and the center of population than are other lines operating in other directions wholly within the city.

The one-way fare of the defendants between Los Angeles and Eagle Rock is 10 cents, made up of a fare of 5 cents to Glassell road and 5 cents from Glassell road to Townsend avenue.

The defendants maintain two family commutation rates between Los Angeles and Townsend avenue, Eagle Rock—one 30-ride family commutation ticket for \$1.50 or 5 cents per trip, and one 50-ride family commutation ticket for \$3.00 or 6 cents per trip.

Between Los Angeles and Inglewood the defendants maintain a one-way passenger fare of 15 cents, made up of 5 cents to Fifty-fourth street and 10 cents from Fifty-fourth street to Inglewood. Adult commutation rates maintained by the defendants between Los Angeles and Inglewood are as follows:

| | |
|---|--------|
| 10-ride party ticket----- | \$1 00 |
| 30-ride family ticket----- | 3 00 |
| 52-ride individual monthly commutation----- | 4 00 |

The complaint of the city of Inglewood may be reduced to a question of discrimination in favor of Eagle Rock and as against Inglewood in violation of section 21, article XII, of the constitution of California, reading as follows:

“No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in facilities for the transportation of the same classes of freight or passengers within this State.”

The defendants have drawn a circle of 6.2 miles from Sixth and Main streets, Los Angeles, which latter point is claimed to be the center of population, and within this circle a fare of 5 cents is charged as a general proposition. The one exception to the rule that no fare of 5 cents extends beyond the circle drawn 6.2 miles from Sixth and Main streets, Los Angeles, is that line operating to a point beyond the

city limits of Los Angeles known as Annandale, and between this point and the city of Los Angeles a fare of 5 cents is charged without transfer privilege, which is practically equivalent to the commutation rates between Los Angeles and Eagle Rock.

According to the Official Transportation and City Map of Los Angeles it is interesting to note that Twelfth and Main streets has been selected as the center of population and that a circle radiating around this assumed center a distance of eight miles therefrom goes through the city of Inglewood and crosses the line of the defendant at Arbor Vitæ avenue. This same line passes through Eagle Rock a short distance beyond the terminus of the Eagle Rock line of the defendants at Townsend avenue and Eagle Rock road, and also a short distance beyond Buena Vista Terrace and Eagle Rock road, Annandale.

It is almost impossible to take a street car system and segregate the earnings of all of its different routes or lines so as to determine whether the rates on any particular route or line are yielding an excessive return on the capital invested. The defendants operate twenty-seven lines over various streets and along certain routes in Los Angeles, one of which operates from Eagle Rock to Hawthorne through the city of Inglewood. It also operates a line, known as the "Main Street Line," to Eagle Rock Park through Annandale. From the records of earnings furnished by the defendants it would appear that the line operating from Eagle Rock to Hawthorne through the city of Inglewood is a very much better paying line than the one operating to Eagle Rock Park through Annandale.

On one end of the Eagle Rock-Hawthorne line, for approximately the same distance, one set of rates are charged lower than on the other end of the line for approximately the same distance, while the line through Annandale, which appears to be less either per car mile or per car hour than the through line between Eagle Rock and Hawthorne, is favored with a still lower rate. This lower rate, however, as before stated, is practically equivalent to the commutation rates in effect between Los Angeles and Eagle Rock. I believe the evidence clearly discloses the fact that discrimination exists in favor of Eagle Rock as against Inglewood. Whatever may have been the reasons moving the defendants to establish a fare of 10 cents between Los Angeles and Eagle Rock they are of little consequence. The fact remains that passengers may travel to Eagle Rock for 10 cents, including transfer privileges within the city of Los Angeles, and for approximately the same distance to Inglewood a fare of 15 cents is exacted. It is also a fact that a person may travel from Buena Vista avenue, Annandale, to all points in Los Angeles for 10 cents, and I am at a loss to understand how the defendants expect to maintain the present rate adjustment as against the city of Inglewood.

When a carrier voluntarily establishes a scale of rates between two points the presumption must be entertained that such rates are prima facie reasonable, and entertaining such a presumption it is clearly apparent that the rates between Los Angeles and Inglewood are excessive.

Street car lines, such as are operated by the defendants, are in a position to place tremendous handicaps on the development of a particular section by placing in effect lower rates for approximately the same distance to one locality than to another. Under such circumstances carriers allege that the greater density of population justifies a lower rate to one section than to the other, notwithstanding the distance may be about the same; and while, to a certain extent, the density of traffic is a factor in making rates, the fact that one community being denied rates for an almost identical service is frequently the reason why the population does not increase. Population usually follows the lowest transportation rates and when one locality is denied rates equal to another for approximately the same service the result is generally the same: the community with the low rate prospers and that with the higher rate lies dormant.

I find as a fact that the rates of the defendants between Los Angeles and the city of Inglewood are excessive, unreasonable and discriminatory.

I find as a fact that just and reasonable passenger fares between Los Angeles and the city of Inglewood would be as follows:

| | |
|---|----------|
| One-way fare including the usual transfer privileges to points in the city of Los Angeles----- | 10 cents |
| 30-ride family commutation ticket without transfer privileges---- | \$1 50 |

I recommend the following order:

ORDER.

City of Inglewood having complained that the rates of the Los Angeles Railway Company and Los Angeles Railway Corporation for the transportation of passengers between Los Angeles and the city of Inglewood are excessive and discriminatory and a regular hearing having been held and the Commission being fully advised in the premises and basing its conclusions on findings of fact contained in the opinion which precedes this order,

It is hereby ordered that the Los Angeles Railway Company, a corporation, and Los Angeles Railway Corporation, a corporation, publish and file with this Commission within twenty (20) days from date hereof a fare of ten (10) cents between the city of Inglewood and Los Angeles with usual transfer privileges to points in the city of Los Angeles, and a fare of \$1.50 for a 30-ride family commutation ticket without transfer privileges, which fares are hereby found to be just and reasonable fares for the service performed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of July, 1913.

DECISION No. 774.

HUGH A. BOYLE

vs.

BELVEDERE LAND AND WATER COMPANY ET AL.

Case No. 373.

Decided July 2, 1913.

Complaint of Hugh A. Boyle alleging invasion of territory served by him by Belvedere Land and Water Company. *Held*, complaint not sustained, dismissed.

M. I. Sullivan, for Hugh A. Boyle.

J. M. Burke, for Burke, LeMay, Hunter and Brassill.

Powell & Dow, for Belvedere Land and Water Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

Plaintiff complains against the individual defendants herein, and alleges that said defendants between the 15th day of February, 1913, and the 3d day of March, 1913, wrongfully disconnected the pipes through which said defendants were receiving water from the water system owned and operated by plaintiff, and thereafter received water, and are now receiving water from the defendant, the Belvedere Land and Water Company.

That said Belvedere Land and Water Company has wrongfully, without obtaining an order therefor from the Railroad Commission of the State of California, extended its system and service into the territory occupied and served by the system of the plaintiff, and that it served and is now serving said individual defendants with water from its system, and that said Belvedere Land and Water Company extended its system so as to interfere with the operation of the system of plaintiff.

There can be no doubt that consumers of a public utility service have a right at any time to discontinue receiving such service, and,

therefore, the complaint against the individual defendants herein that they disconnected themselves from the water system of plaintiff can not be entertained.

No evidence was introduced to show that the Belvedere Land and Water Company was interfering, in constructing or extending its plant or system, with the operation of the plant or system of plaintiff.

It only remains to be determined, therefore, whether the Belvedere Land and Water Company has extended its system into the territory now served by the system of plaintiff without the authorization of this Commission, or whether the individual defendants constitute a public utility making a like invasion with a system into the field now occupied by plaintiff.

It appears that plaintiff owns and operates a water distributing system, furnishing water to certain residents in and about the town of Tiburon, county of Marin, State of California, and the Belvedere Land and Water Company owns and operates a water system furnishing water to certain residents in the county of Marin, State of California, outside of the territory furnished by the system of plaintiff.

That between the 15th day of February, 1913, and the 3d day of March, 1913, a number of the customers of plaintiff disconnected themselves from the system of plaintiff, and, at their own expense, constructed a pipe line connecting with their property on the one hand and running to the main of the Belvedere Land and Water Company within the territory served by it, and thereafter purchased from the Belvedere Land and Water Company water measured at a meter placed at the point where the pipe put in by these consumers connects with the main of said Belvedere Land and Water Company.

The Belvedere Land and Water Company collects from one of these consumers, who acts for all of them, and he in turn collects from his fellow consumers the amount he pays the Belvedere Land and Water Company on the basis of the amount of water used by each of these consumers.

There is no evidence that the Belvedere Land and Water Company has laid any pipe in the territory occupied and served by plaintiff, nor is there any evidence to sustain the contention that the consumers constitute a public utility.

The consumers are a voluntary association made up of individuals who have contributed to the cost of laying these pipe lines, and who each bears a proportion of the cost of the water furnished, based on the amount of water each uses.

Clearly, the consumers are, if anything, a mutual concern, which, under the Public Utilities Act, may enter a field occupied by a public utility without the consent of the Railroad Commission.

The evidence establishes beyond a doubt that the Belvedere Land and Water Company is only selling water at the meter on its pipe line within its own territory and that it has no interest whatever in the pipe line laid by these consumers, and as it has a right to sell water within its own territory and is not obligated to prevent such water being used in the territory of a rival, it is clear that the Belvedere Land and Water Company can not be held to have in any way extended its system into the territory occupied by plaintiff.

Therefore, I recommend that no action be taken as prayed for by plaintiff, and that said complaint be dismissed.

I submit herewith the following form of order:

ORDER.

Complaint having been made by *Hugh A. Boyle vs. Belvedere Land and Water Company and Wm. J. Hunter, James K. Brassill, Jane LeMay and Charles A. Burke*, and said defendants having answered, and a hearing having been had, and the Commission being fully advised in the premises,

It is hereby found as a fact that Belvedere Land and Water Company and Wm. J. Hunter, James K. Brassill, Jane LeMay and Charles A. Burke have not, nor has either of them as a public utility, begun the construction of a plant or system or any extension of such plant or system into territory theretofore or now served by the water system of plaintiff; and

It is hereby further found as a fact that none of said defendants, or either of them, has constructed or extended a plant or system so as to interfere with the operation of the plant or system now operated by plaintiff.

Ordered that the complaint herein be dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of July, 1913.

DECISION No. 775.

J. S. MOFFITT ET AL.

vs.

NEVADA-CALIFORNIA-OREGON RAILWAY COMPANY.

Case No. 389.

Decided July 3, 1913.

Complaint of J. S. Moffett against the service of the Nevada-California-Oregon Railway Company at Pine Creek, California. *Held*, complaint dismissed.

H. V. Meloy, for Complainants.

James Glynn, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is a complaint against the service of the Nevada-California-Oregon Railway at its station called Pine Creek, California.

During the year 1911 this carrier extended its line from Davis Creek to Lakeview, Oregon, and opened the extension for operation about January 10, 1912. At a point about two hundred feet south of the California-Oregon state line the carrier erected a station building and installed an agent and gave to this station the name of Pine Creek, California.

It is admitted by the carrier that the purpose for which the agency station was established was to serve the residents of New Pine Creek, Oregon, an incorporated town adjoining the California-Oregon state line, about 7,830 feet east of the station, and persons living within California across the state line from New Pine Creek, Oregon, but actually within its physical limits.

On November 25, 1912, the agent was removed from the Pine Creek station to a station approximately half a mile to the south, called Fairport, at which point the agent has since been maintained and Pine Creek has been operated as a "prepay station." Shortly after the agent was installed at the Pine Creek station, the road leading therefrom to the town of New Pine Creek, Oregon, hereinafter called the "State Line Road," was graveled and put in condition, so that it could be used at all times of the year, at quite an expense to the residents of New Pine Creek. This road, it is alleged, has been rendered practically useless by the removal of the agent to Fairport, as the travel between New Pine Creek and Fairport is by another road paralleling the state line road for a greater part of the way, located

about half a mile to the south of it, and as travel over the state line road for other purposes than to reach the Pine Creek station is immaterial and practically nil. It is also alleged that the road between Fairport and New Pine Creek is impassable in winter, and is traversed by gullies and ditches, making travel thereover difficult at all times.

It appears that it costs practically \$1.00 per ton more to haul freight between New Pine Creek and the Fairport station than between New Pine Creek and the Pine Creek station and it is alleged that for this reason material detriment and inconvenience have resulted to the residents of New Pine Creek and vicinity by the removal of the agent from Pine Creek Station and that the present service of the carrier at Pine Creek Station is inadequate and unreasonable, and the Commission is asked to order the defendant to restore the agent and re-establish the service maintained at Pine Creek Station prior to the removal of the agent therefrom. It is further contended that the transfer of the agent at Fairport was for the purpose of promoting the private interests of the Fairport Town and Land Company regardless of and to the injury of the interest of the public, and it is admitted that the president, vice-president, secretary-treasurer of the Fairport Town and Land Company are respectively the vice-president, general manager, land commissioner and live stock agent of the defendant carrier. It is also claimed that the removal of the agent to Fairport was in direct violation of General Order No. 30 of this Commission, providing, among other things, that "No railroad corporation shall * * * abandon an agency at any depot * * * without first having made application to and received the consent of this Commission," but the facts do not sustain this contention, as General Order No. 30 was not effective until December 1, 1912, or several days after the transfer of the agent had been made.

The defendant justifies its removal of the agency to Fairport on the grounds that the site at Pine Creek was unsuited for a station, being low and swampy in the winter, and the proximity to the state line made it undesirable, as it might in time lead to confusion and annoyance if a town grew up immediately around the station, and also that the depot site at Fairport is higher and that the road leading therefrom to New Pine Creek is capable of being made a better road, and is but 2,000 feet longer than the road leading from the Pine Creek station, and is also the direct route to the High Grade mines, for which a few consignments have been received at Fairport.

At the hearing, the defendant, to dispose of this complaint, offered to pick up and deliver freight and passengers in New Pine Creek at the same rate or charge as was made for draying freight and transporting passengers between New Pine Creek and the Pine Creek station before the agency was removed to Fairport, but the com-

plainants, after considering the proposition, were unwilling to accept it and withdraw the complaint.

The question presented seems to be whether the public would be better served by maintaining an agent at Pine Creek Station than by maintaining an agent at Fairport. It is immaterial if certain expenditures were made upon the road leading from Pine Creek Station to New Pine Creek if it is found that the public is better, or at least as well served by having the agency maintained at Fairport.

The defendant has agreed to adequately fix the road leading from the Fairport station to New Pine Creek, that is by filling the gullies and ditches traversing it and putting it in such shape that it can be used throughout the year, and this should settle the dispute as to the quality and condition of the Fairport road as compared with the state line road, and if the defendant also takes care of the difference in the cost of transporting freight and passengers between New Pine Creek and Fairport, which it can easily accomplish by reducing its rates to Fairport by that amount, I do not see how it can be claimed that the change is detrimental and injurious to the residents of New Pine Creek and vicinity, particularly in view of the fact that the distance traversed between New Pine Creek and Fairport is but approximately 2,000 feet greater than the distance between New Pine Creek and the Pine Creek station.

No doubt the Fairport Town and Land Company will benefit by the location of the station agent at Fairport, adjacent to its hotel, but it could have secured the same benefit by building the hotel adjacent to the Pine Creek station, at which place it also owns property, and as long as the benefit thus secured is not at the expense of the public and does not result in public inconvenience or detriment, it should not influence the determination of the question here involved, and it does not appear from the record that the officials of the Fairport Town and Land Company have in their semi-public capacity as officials of the Nevada-California-Oregon Railway promoted their own private interests to the detriment of the public service.

From a consideration of all of the facts in this matter, I am of the opinion that the people of New Pine Creek and the vicinity will be adequately and reasonably served through the station at Fairport, when the road leading to Fairport is put in proper shape and the arrangements perfected for taking care of the additional cost of draying freight and transporting passengers between New Pine Creek and Fairport, which should be done at once, and that the carrier should be given an opportunity to so adjust the matter, and I therefore recommend that the complaint be dismissed. In view of these conclusions I am also of the opinion that the carrier should be permitted, when the Fairport road is put in proper condition and the arrange-

ment for taking care of the additional cost of hauling thereto has **been** perfected, to discontinue entirely any service which it may be **giving** at the prepay station of Pine Creek if it sees fit to make an **applica-**tion to do so, for the reason that it is obviously **ineconomic** to **main-**tain two stations in such close proximity, and where the **necessities** of the public are not such as to require two stations, such as is the **case** here.

I therefore recommend the following form of order:

ORDER.

J. S. Moffitt, for himself and others similarly situated, having **filed** complaint against the Nevada-California-Oregon Railway and a **hearing** having been held and the Commission being fully apprised in **the** premises,

It is hereby ordered that the said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the **State** of California.

Dated at San Francisco, California, this 3d day of July, 1913.

Decisions Nos. 776, 777, 778, and 779, grade crossings; not printed. See end of volume.

DECISION No. 780.

J. H. MILLER AND E. DONALDSON, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF MILLER AND DONALDSON,

vs.

THE WILMINGTON TRANSPORTATION COMPANY.

Case No. 381.

Decided July 9, 1913.

Held, That the Railroad Commission has authority to fix the rates charged by vessels plying between San Pedro and Catalina Islands, in Los Angeles County, even though twenty-one miles of high seas are traversed in the voyage.

Held, That a voyage from San Pedro directly to the Catalina Islands, both points being within Los Angeles County, and there being no exchange of goods with foreign vessels, and no stopping at a foreign port, is not commerce "with foreign nations" under the Federal Constitution.

Held, That the Federal Government has assumed no jurisdiction over the rights of vessels plying between California ports, and that, in the absence of such action, the State of California has the right to regulate such rates, even if the commerce be regarded as commerce "with foreign nations."

Held, Motion to dismiss complaint charging that rates for freight and passengers on vessels plying between San Pedro and Avalon, Catalina Islands, are unreasonable, on the ground of lack of jurisdiction in Railroad Commission, dismissed and defendant directed to satisfy the complaint or answer within ten days.

Karl L. Ratzer, for Complainants.

James A. Gibson, for Defendants.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is a motion to dismiss the complaint on the ground that this Commission has no jurisdiction to entertain the same. The defendant contends that this Commission has no authority over the rates of transportation for persons or property over the lines of defendant steamship company between San Pedro on the mainland and Avalon on Santa Catalina Island. Both points are located within the county of Los Angeles, State of California. They are twenty-seven miles apart, of which distance twenty-one miles are on the high seas. Defendant bases its contentions solely on the claim that the commerce affected is commerce "with foreign nations."

The complaint in this case was filed on March 25, 1913. It alleges, in effect, that the complainants are engaged in the sale of groceries, meats, hardware and provisions at Avalon, Santa Catalina Island, county of Los Angeles, State of California; that defendant is a California corporation engaged in the business of a common carrier of persons and property between San Pedro and Avalon, both of said places being located within the county of Los Angeles, State of California; that the distance from San Pedro to Avalon is about twenty-seven miles; that the defendant is the only common carrier of persons or property whose vessels ply between the said two ports; that the rates charged by defendant for the transportation of persons and property are as specifically set out in the complaint, and that they are unjust and unreasonable and contrary to the provisions of section 13a of the Public Utilities Act; that complainants have for the last four years shipped freight over the defendant's line and have paid freightage amounting to about \$2,500.00 per year and that they have been damaged by reason of excessive freightage in the sum of \$1,000.00 per year, and that if defendant is permitted to continue to charge its said rates, complainants will suffer irreparable injury. The complainants ask that this Commission adjust the rates charged by the defendant for the transportation of persons and property and that it reduce said rates to a just and reasonable basis.

On the twenty-first day of April, 1913, the defendant filed its motion to dismiss the complaint, on the ground that this Commission does not have jurisdiction to entertain the same, and on the particular ground that it appears from the complaint that the defendant is engaged in

interstate commerce between ports upon the Pacific Ocean, across one of the great arms thereof, viz, Gulf of Catalina, and, also, that it does not appear from the complaint that the defendant is engaged in intra-state traffic within the State of California.

Thereafter, on June 4, 1913, argument on the motion to dismiss was had before the Commission. At the argument it was stipulated between the parties that all the vessels employed by the defendant in its transportation between San Pedro and Avalon are enrolled and licensed to carry on the coasting trade under the acts of the Federal Congress.

Upon request of the parties, each side was given permission to file briefs, these briefs have now been filed and have been carefully considered.

The issue in the present proceeding is whether the Railroad Commission has the authority to establish rates of charges for the transportation of persons and property between two points, both of which are located in Los Angeles County, in this State, the transportation being conducted by means of vessels which, in plying directly between these two ports, traverse twenty-one miles of high seas, but do not touch at any port either in any other state of this Union or of any foreign nation and do not transfer their passengers or freight to any other vessel or receive the same from any other vessel in their course and which use the high seas simply for the purpose of navigating from one of said points to the other of said points in Los Angeles County. The question at issue is not concerned with passengers or freight which come from or go to points in other states or other nations, but is confined to purely local traffic between points within the State of California.

The defendant contends that the transportation at issue is subject exclusively to the authority of the Federal Government, on the ground that it is "commerce with foreign nations," under the provisions of section 8 of article I of the constitution of the United States.

Before examining the constitutional questions involved, I desire to draw attention to the fact that if this Commission does not have power over the rates in question, no governmental authority has such power, with the result that the defendant, although a common carrier plying exclusively between points in this State, will be entirely free from governmental regulation as to its rates. This conclusion, if defendant's contentions are correct, follows from the fact that the Federal Government has never enacted a statute which affects the commerce concerned in this proceeding, as will hereinafter appear in greater detail. It goes without saying that the conclusion that the defendant is subject to no governmental regulation as to its rates will not be reached unless it is necessary to do so.

I shall now consider the provisions of the constitution and statutes of this State bearing on the question at issue.

Section 17 of article XXII of the Constitution of this State reads in part as follows:

"All railroad, canal and other transportation companies are declared to be common carriers, and subject to legislative control."

Section 22 of article XII of the constitution of this State, as amended on October 10, 1911, reads in part as follows:

"There is hereby created a railroad commission which shall consist of five members and which shall be known as the Railroad Commission of the State of California. * * * Said commission shall have the power to establish rates of charges for transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in the tariff of rates, established by said commission than the rates, fares and charges which are specified in such tariff."

The Commission is given power, among other things, "to hear and determine complaints against railroad and other transportation companies."

Section 23 of article XII of the constitution of this State, as amended on October 10, 1911, provides in part that

"Every *common carrier* is hereby declared to be a public utility subject to such control and regulation by the Railroad Commission as may be provided by the legislature, and every class of private corporations, individuals or associations of individuals hereafter declared by the legislature to be public utilities shall likewise be subject to such control and regulation."

The section further provides as follows:

"The Railroad Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the legislature, and the right of the legislature to confer powers upon the Railroad Commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution."

Acting under the authority conferred by these various constitutional provisions, the legislature of this State at its extraordinary session in 1911, enacted the Public Utilities Act, which became effective on March 23, 1912. This act provides in part as follows:

SEC. 2 (1). "The term 'common carrier,' when used in this act, includes every railroad corporation; * * * and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel regularly engaged in the transportation of persons or property for compensation upon the waters of this state or upon the high seas, over regular routes between points within this state."

It will be particularly noted that the term "common carrier" as used in the Public Utilities Act, includes corporations and persons operating vessels regularly engaged in the transportation of persons or property for compensation "upon the waters of this state *or upon the high seas*" over regular routes "between points within this state." It is obvious that this language completely covers the facts of the present proceeding.

Section 2 (bb) provides in part as follows:

"The term 'public utility,' when use in this act, includes every common carrier * * * as those terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act."

There can be no doubt that under these constitutional and statutory provisions, the State of California has given to this Commission the unquestioned power, in so far as the State could do so, to exercise jurisdiction in the present proceeding. Under these provisions, it has not merely the power but it is also the duty of this Commission to take jurisdiction over complaints such as the one which has been filed in this proceeding, unless said provisions of the constitution and statutes of this State violate the Federal constitution. If such violation exists, the courts and not this Commission should so declare.

In analyzing the Federal constitutional questions involved, I shall consider first the power of the states over this subject-matter prior to the adoption of the Federal constitution; then the question whether or not the power of the states in this respect has been delegated to the Federal Government; and then the question whether, assuming that this power has been delegated to the Federal Government, the states may, nevertheless, exercise the same until the Federal Government acts in the matter.

That the original thirteen colonies, after the Declaration of Independence in 1776, assumed all the powers of independent sovereignties and exercised many thereof, is well known to students of American constitutional history. An examination of the constitution of these states, adopted between 1776 and 1787, and an investigation into the acts of these states under such constitutions, shows that they claimed the power to declare war and make peace, to enter into treaties with each other and foreign nations, to impose and collect customs duties and taxes, to send and receive ambassadors, to maintain armies and navies, to grant letters of marque and reprisal, to establish admiralty courts, and to do other acts which distinctively characterize sovereign nations. These powers were claimed and in part exercised by the thirteen original states prior to 1787, except in so far as by the Articles of Confederation they were delegated to the "Confederacy" known as the

“United States of America.” That each of these states claimed to be sovereign and independent and to have all the powers belonging to independent nations appears from article II of the Articles of Confederation, adopted on July 9, 1778, reading as follows:

“Each state retains its sovereignty, freedom and independence and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.”

While it is true that many of the most important attributes of sovereignty were delegated by the respective states to the confederacy under certain limitations, it is important to observe that two powers much needed by the central authority, viz, the power to raise money and to regulate commerce, were retained by the states.

The power over commerce was one of the most important which was claimed and exercised by these states. Each state claimed complete sovereignty concerning this power. The existence of this power in the several states was one of the main reasons for the creation of the Federal Government. The records of the Congress under the Articles of Confederation for April 30, 1784, show that on said day a resolution was adopted, which resolution, after reciting that

“The situation of commerce at this time claims the attention of the several states, and few objects of greater importance can present themselves to their notice”

continues as follows:

“*Resolved*, That it be, and it is hereby recommended to the legislatures of the several states to vest in the United States in Congress assembled, for the term of fifteen years, with power to prohibit any goods, wares or merchandise, from being imported into or exported from any of the states, in vessels belonging to or navigated by the subjects of any power with whom these states shall not have framed treaties of commerce.” (Law of the United States, Vol. 1, p. 45.)

From a report made to the Congress on October 23, 1786, it appeared that none of the states except Delaware had acted in full compliance therewith, although most of them had passed resolutions granting the desired power to Congress, with varying conditions and limitations attached thereto. Nothing further was done as to the matter. The necessity for securing the permission of the states shows that at this time the states had complete power over commerce.

The records of the Congress further show that on July 13, 1785, James Monroe presented to Congress a motion to amend paragraph 9 of the Articles of Confederation, so as to vest Congress with the power to regulate trade “of the states as well with foreign nations, as with each other.” This resolution was never adopted.

On January 21, 1786, Virginia proposed to the other states a convention of commissioners from the several states to consider measures necessary to enable Congress to regulate commerce. The resolution adopted by the House of Delegates of Virginia recites first and foremost that the commissioners shall take into consideration "the trade of the United States." In response to the invitation of Virginia, five states sent their commissioners to a convention which met in Annapolis on September 11, 1786. While this convention itself accomplished but little, it is well known that it was the precursor of the convention which thereafter met in Philadelphia on the second Monday in May, 1787, and framed the present Federal constitution.

It is clear that prior to the adoption of the present Federal constitution the individual states had complete control over commerce, not only within their borders, but also upon the high seas between ports within their respective limits, and also with foreign nations. It is significant that in the discussions concerning this matter in the period between 1776 and 1787, attention was directed almost solely to navigation as a vehicle of commerce. No railroads had as yet been constructed and the commerce on land between state and state did not call for the regulation which was demanded in connection with commerce by sea, either with foreign nations or between the states or between the ports of each individual state.

That the State of California has all the powers over commerce which the original states had, except in so far as these powers may have been delegated to the Federal Government by the Federal constitution, appears from section 1 of the act of September 9, 1850, admitting California to the Union (9 Stat. 452), reading as follows:

SEC. 1. "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the State of California shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original states in all respects whatsoever.*"

It thus appears that California at the present time has the power to regulate the commerce involved in this proceeding, unless the power over such commerce has been conferred upon the Federal Government, and unless such delegation in and of itself has taken from the states the right to exercise the power which was unquestionably theirs.

In discussing the question whether or not power over the commerce involved in this proceeding has been delegated to the Federal Government, it will be necessary to distinguish clearly between the admiralty and maritime jurisdiction on the one hand and the so-called commerce clause of the Federal constitution on the other. That these two powers are entirely distinct and should not be confused with each other appears

from the case of the "Belfast," 74 U. S. (7 Wall.) 624, in which case Mr. Justice Clifford says at page 640:

"Difficulties attend every attempt to define the exact limits of admiralty jurisdiction, but it can not be made to depend upon the power to regulate commerce, as conferred by the constitution. *They are entirely distinct things, having no necessary connection with one another, and are conferred, in the constitution, by separate and distinct grants.*"

The power of the Federal Government with reference to admiralty and maritime matters is conferred by article III, section 2, subsection 1 of the Federal constitution, reading in part as follows:

"The judicial power shall extend * * * to all cases of admiralty and maritime jurisdiction."

By this clause the Federal constitution conferred upon the Federal judiciary jurisdiction over all matters which, at the time the constitution was adopted, were comprehended under the general head of admiralty and maritime matters. This jurisdiction is limited to such contracts, claims and services as are purely maritime. It covers such matters as collisions at sea, contracts for hire of seamen, contracts of affreightment, marine insurance policies, limitation of owners' liability in case of loss, and maritime torts and crimes. This jurisdiction is not limited to tidewaters but extends to all the navigable waters of the United States and to vessels which may be engaged in purely intra-state commerce on such waters, in so far as concerns subjects which are clearly of an admiralty or maritime nature.

Ex parte Berger, 109 U. S. 629; *In re Garnett*, 141 U. S. 1; *The Robert W. Parsons*, 191 U. S. 17.

In the present case it is not contended that the power of the Federal Government, if it has any, rests on the admiralty and maritime clause of the constitution. The matter at issue is not essentially a maritime matter. It relates to governmental control over the rates charged by a common carrier, and the essence of the matter is the same, whether the transportation by such common carrier be by land or by water. It follows that if the Federal Government has power over this matter it must be under the so-called commerce clause, which we shall herein-after examine in greater detail. This is the position taken by the defendant in this case and it is the only position which the defendant can take.

In considering this question, it should be borne in mind that the mere fact that an American vessel sails the high seas does not necessarily give to the Federal Government authority over all acts in connection with such vessel while it is navigating the common highway of nations. That the State in which the vessel is enrolled and in which

its owner resides continues to have important powers in connection with such vessel while on the high seas, has been clearly established by the decisions both of the United States Supreme Court and of the highest courts of different states of the Union. In the case of *Crapo vs. Kelly*, 83 U. S. (16 Wall.) 610, an insolvency court in Massachusetts purported to pass title to an assignee in insolvency to a vessel enrolled and owned in Massachusetts, and at the time navigating the Pacific Ocean. The title of the assignee was questioned by an attachment creditor, who attached the vessel when it returned to the state of New York. The Supreme Court of the United States held that the title of the Massachusetts assignee prevailed, and in expressing this conclusion, uses the following language at page 624:

“We are of the opinion, for the purpose we are considering, that the ship ‘Arctic’ is a part of the territory of Massachusetts, and the assignment by the insolvency court of that state passed the title to her, in the same manner and with the like effect as if she had been physically within the bounds of that state when the assignment was executed.”

Likewise, in the case of *Norman vs. Thompson*, 121 Cal. 620, the Supreme Court of California, in passing on the validity of a purported marriage of residents of California on the high seas in a California vessel, held that the law of California must govern the transaction, and that as the marriage had not been solemnized as provided under the statutes of California, it could not be held to be valid.

It follows from these and similar cases that the mere fact that an American vessel navigates the high seas, does not necessarily mean that the states are divested of jurisdiction with reference to all transactions affecting such vessel.

The defendant in this proceeding contends that the Federal Government has control, under the provisions of article I, section 8, of the Federal constitution, providing in part that

“The Congress shall have power * * * to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

It is clear that the question is not one of commerce “with the Indian tribes.” It is equally evident that it is not commerce “among the several states.” No state other than California is concerned with this commerce. Defendant, however, contends that this is “commerce with foreign nations.” This contention is made in the face of the fact that the vessel touches at no foreign port, that no persons or property are transported to or taken from any foreign vessel in the course of the journey between San Pedro and Avalon, and that the voyage is between two California ports situated within the same county in this State, and that the crossing of the high seas is merely an incident to enable the

vessel to move from one California port to another. While nine out of ten laymen having an ordinary understanding of the English language, would agree that such commerce can not be "commerce with foreign nations," defendant insists that its position is correct and relies on several authorities in support thereof.

I shall now proceed to consider these authorities.

In the case of *Lord vs. Goodall, Nelson & Perkins Steamship Co.*, 102 U. S. 541, an action was brought against the owners of the steamship "Ventura" to recover the value of freight which was lost when that vessel sank at sea on a voyage between San Francisco and San Diego. The defendants contended that under the provisions of section 4283 of the Revised Statutes, they were liable only for the value of their interest in the vessel and her freight then pending. As the matter was an admiralty matter, clearly under the authority of the Federal Government, and completely covered by said section of the Revised Statutes, the judgment of the lower court in favor of the defendants was necessarily affirmed. The case was one arising under the Federal statute creating a limited liability for the owners of vessels, which statute was clearly enacted under the admiralty and maritime powers of the Federal Government (*In re Garnett*, 141 U. S. 1, 12; *Butler vs. Boston & Savannah Steamship Co.*, 130 U. S. 527, 555), and in no way involved the commerce clause. Mr. Chief Justice Waite, however, goes out of his way to make certain observations with reference to the commerce clause. He says at page 544:

"The Pacific Ocean belongs to no one nation, but is the common property of all. When, therefore, the 'Ventura' went out from San Francisco or San Diego on her several voyages, she entered on a navigation which was necessarily connected with other nations. While on the ocean her national character only was recognized, and she was subject to such laws as the commercial nations of the world had, by usage or otherwise, agreed on for the government of the vehicles of commerce occupying this common property of all mankind. She was navigating among the vessels of other nations and was treated by them as belonging to the country whose flag she carried. True, she was not trading with them, but she was navigating with them and consequently with them was engaged in commerce. If, in her navigation, she inflicted a wrong on another country, the United States, and not the State of California, must answer for what was done. In every just sense, therefore, she was, while on the ocean, engaged in commerce with foreign nations, and as such she and the business in which she was engaged were subject to the regulating power of Congress."

The logic of this reasoning should be carefully noted. The Chief Justice says, in effect, that the "Ventura," while on the ocean, was "navigating among the vessels of other nations," and that while she was not trading with such vessels, she was nevertheless "navigating" with them. He then reaches the conclusion that she, "consequently,

with them was engaged in commerce," and then reaches the final conclusion that she was necessarily "while on the ocean, engaged in commerce with foreign nations." With all due respect to this obiter opinion of the Chief Justice, I submit that it is clearly a logical fallacy. The mere fact that a vessel is sailing on the high seas, which high seas may also be navigated by foreign vessels, is to my mind absolutely inconclusive evidence to show that the vessel is engaged "in commerce with foreign nations." I am unable to understand how a vessel which touches at no foreign port and takes no persons or commodities from a foreign vessel and delivers no persons or commodities to such vessel, and which plies exclusively between two ports within the same county in this State, can be held to be engaged in "commerce with foreign nations."

The Supreme Court of the United States itself, when its attention was thereafter drawn to this reasoning, must have entertained the same views to which I have here given expression. In the case of *Lchigh Valley Railroad Co. vs. The Commonwealth of Pennsylvania*, 145 U. S. 192, a case involving the power of the State of Pennsylvania to impose a tax on that portion of the receipts of an interstate railroad which represented the mileage moved within the State of Pennsylvania, Mr. chief Justice Fuller refers to the Lord case, *supra*. After stating that the single question in that case "was, as stated by Mr. Chief Justice Waite, delivering the opinion of the court, whether Congress had power to regulate the liability of the owners of vessels navigating the high seas, but engaged only in the transportation of goods and passengers between ports and places in the same state, it being conceded that the voyages of the steamship in respect of whose loss the question arose were always ocean voyages," and after quoting the dictum in the case with reference to commerce with foreign nations, which dictum has hereinbefore been set out in full, Mr. Chief Justice Fuller continues, at page 203:

"But it was unnecessary to invoke the power to regulate commerce in order to find authority for the law in question. As stated by Mr. Justice Bradley *In re Garnett*, 141 U. S. 1: 'The act of Congress which limits the liability of ship owners was passed in amendment of the maritime law of the country, and the power to make such amendments is coextensive with that law. It is not confined to the boundaries or class of subjects which limit and characterize the power to regulate commerce; but, in maritime matters, it extends to all matters and places to which the maritime law extends.' In that case the limited liability act was applied to a steamer engaged in commerce on the Savannah River."

It thus appears that the United States Supreme Court, in its later decision in the *Lchigh Valley* case, was unwilling to follow the reasoning of Mr. Chief Justice Waite in the *Lord* case, in so far as concerns the

dictum as to commerce with foreign nations. Nevertheless, we find that in certain other cases the dictum in the *Lord* case has been used without apparently any analysis of the constitutional principles at issue and in spite of the anomalous conclusion to which the dictum leads. I shall hereinafter refer to these decisions.

The defendant also relies on certain language in the *Lord* case referring to navigation. The authorities have established the principle that the term "commerce," as used in section 8 of article I of the Federal constitution, includes the transportation of men and property, intercourse and navigation. The defendant contends that the present case is one of "navigation" with foreign nations, even if it be not strictly a case of "commerce with foreign nations." It is difficult to understand how a mere substitution of words can change the result. It is true that, under the commerce clause, the Federal Government has control over such matters as properly concern navigation of vessels, both on the high seas and on the public waters of the United States within the limits of the states of this Union, even as to vessels engaged entirely in intrastate commerce, if the navigation of those vessels affects the navigation of vessels engaged in interstate commerce or in commerce with foreign nations. (*Hazel Kirk*, 25 Fed. 601; *City of Salem*, 37 Fed. 846.) This principle, however, is confined to those matters which affect the safety of navigation, such as the number of lights which a vessel carries, her safety appliances, the number of passengers which she may convey, and similar matters. These matters are entirely distinct from governmental regulation of rates. If "navigation" includes governmental regulation of rates, the control of the Federal Government over navigation should logically give to that government also the power to regulate the rates of purely intrastate navigation. The fact that the Federal Government does not have this power as to commodities moving in vessels entirely intrastate is conclusive against a similar power on the part of the Federal Government, under the doctrine of "navigation," as to the high seas.

The next case on which the defendant relies is the case of *Pacific Coast Steamship Co. vs. Board of Railroad Commissioners*, 18 Fed. 10, a case decided in 1883. In that case, the Pacific Coast Steamship Company secured from the United States Circuit Court for the District of California, an injunction to restrain the Board of Railroad Commissioners from establishing rates of charges to be collected by the steamships of the plaintiff plying between ports in the State of California. The case is based on the dictum in the *Lord* case, hereinbefore referred to. An examination of the original records in this case shows that the complaint and answer were both printed by the same firm and that the only brief which was filed was a two-page memorandum in long hand on the part of the defendants, which memorandum fails to cite a single

authority. The court itself expressed doubt as to its jurisdiction in the case, but proceeded by reason of the fact that "the Commissioners have raised no objection on that ground." The case has all the earmarks of a consent proceeding. It was decided before the Supreme Court of the United States in the *Lchigh Valley* case, *supra*, had an opportunity to express its more matured views with reference to the dictum in the *Lord* case, and long before the State of California clearly expressed its intention to exercise the power herein questioned, as it has done in the Public Utilities Act of 1911. The decision is one of an inferior court. No appeal was ever taken. In view of all the circumstances surrounding this case, I can not recommend to the Commission that it disregard the provisions of the constitution and statutes of this State by reason of the decision of an inferior court, rendered on what was clearly a superficial examination of the question.

The case of *Cowden vs. Pacific Coast Steamship Company*, 94 Cal. 470, was an action to recover damages for discrimination in freight rates between different merchants of San Diego. The freight was transported by the defendant's vessels between San Francisco and San Diego. The court held, on page 474, that the action arose from a maritime contract, and that consequently, in the absence of an allegation of unreasonable rates, which allegation would give to the complainants a remedy at common law in the state courts, the Federal admiralty courts would alone have jurisdiction. The case is clearly correct. The reference to the *Lord* case must be construed in the light of the real issue presented in the *Cowden* case, which was one of maritime contract and not one of the power of the state to regulate rates.

In the case of *Hanley vs. Kansas City Southern Railway Co.*, 187 U. S. 617, the Supreme Court of the United States affirmed a decree of the Circuit Court, granting an injunction to restrain the Railroad Commissioners of Arkansas from fixing and enforcing rates for traffic moving from one point in Arkansas to another point in the same state. It appeared, however, that while the termini were both in Arkansas, the shipments passed for a distance of sixty-four miles through the Indian Territory. The court very properly held that the movement came within that clause in section 8 of article I of the Federal constitution which gives to the Federal Government the power to regulate commerce "among the several states." It is obvious that this was a movement "among the several states." The decision is undoubtedly correct, but it has no material bearing on the case now pending before this commission, for the reason that it can not possibly be held that the present case is one of commerce "among the several states."

In the *Abby Dodge*, 223 U. S. 166, a libel was brought against the vessel "Abby Dodge" to forfeit her, or to enforce a money penalty, for a violation of an act of Congress of June 20, 1906, making it

unlawful to land sponges in ports of the United States during certain seasons of the year. The libel charged that the "Abby Dodge" had landed at Tarpon Springs, Florida, 1229 bunches of sponges taken from the waters of the Gulf of Mexico and the Straits of Florida at a time of the year which was unlawful under the statute. The libel did not say whether the sponges were taken within or without the waters of the State of Florida. Mr. Chief Justice Waite, in delivering the opinion of the court, accordingly reversed a decree imposing the forfeiture. The court intimated that the libel would be sustained if the sponges were taken on the high seas beyond the limits of the State of Florida. Referring to this point, the court says at page 176:

"Undoubtedly (*Lord vs. Steamship Company*, 102 U. S. 541), whether the 'Abby Dodge' was a vessel of the United States or of a foreign nation, even though it be conceded that she was solely engaged in taking or gathering sponges in the waters which by the law of nations would be regarded as the common property of all and was transporting the sponges so gathered to the United States, the vessel was engaged in foreign commerce, and was therefore amenable to the regulating power of Congress over that subject. This not being open to discussion, the want of merit of the contention is shown, since the practices from the beginning, sanctioned by the decisions of this court, establish that Congress by an exertion of its power to regulate foreign commerce has the authority to forbid merchandise carried in such commerce from entering the United States."

The decision in this case does not apply to the case now pending before this Commission. If the "Abby Dodge" secured the sponges from the high seas, she did so by sailing out beyond the three-mile limit, and then taking from a locality which in a sense might be regarded as foreign, definite articles of commerce, which she thereupon transported to a Florida port. Such navigation to what may be regarded as foreign territory and the transportation from such locality of articles of commerce, furnishes no analogy to a case in which no commodities whatsoever are taken on board at any points other than points located within the same county in this State, and in which the sole object in navigating the high seas is to move California commodities from one point in California to another point in the same State. It should be noted, also, that the *Abby Dodge* case by inference limits the power of Congress to cases in which Congress has "exerted" its power to regulate foreign commerce. The effect of the failure of Congress to act in the case now before this Commission will hereinafter be considered.

I have now considered all the cases of any moment on which the defendant relies. These cases, to my mind, leave unchanged the simple logic of the situation. As I have heretofore shown, the states of this Union originally had the power to regulate commerce between points

within their limits, even if that commerce in a portion of its course traversed the high seas. The states of the Union at present still have that power, unless it has been delegated to the Federal Government. The Federal Government has the power only if it is commerce "with the Indian tribes" or "among the several states" or "with foreign nations." That the commerce in question comes within none of these classes seems too clear for further argument. Accordingly, in my opinion, the power to regulate the rates of transportation in this proceeding vests exclusively in the State of California.

I shall now consider this case on the assumption that my conclusion on the first part of the case is incorrect and that the Federal Government may, if it desires to do so, regulate the commerce in question as being commerce "with foreign nations." It becomes necessary in that connection to consider the effect which the failure of Congress to act in the premises has on the state's power. In many cases arising under the commerce clause, the courts have held that the states have the undoubted right, in the absence of legislation by Congress, to enact legislation more or less directly affecting the commerce over which the Federal Government may, if it so desires, exert its authority. That the Federal Government has not acted in the matter of regulating commerce wholly by water is clear. The Interstate Commerce Act in no way affects such commerce except in cases of common arrangement or control between a water carrier and a rail carrier. The case before the Commission is not such a case. With reference to the failure of the Federal Congress to act in this field, see *In the Matter of Jurisdiction Over Water Carriers*, 15 I. C. C. Reports, 205, and *Mutual Transit Company vs. United States*, 178 Fed. 664, 666. The act approved August 24, 1912, known as the Panama Canal Act, amends section 5 of the Interstate Commerce Act so as to give to the Interstate Commerce Commission the power with reference to combined movements by rail and water to establish physical connections, through routes and maximum joint rates, and maximum proportional rates by rail. No power, however, was conferred with reference to movements by water only. No attempt has ever been made by the Federal Congress to enter this field.

While the line between the cases in which non-action by the Federal Government with reference to commerce is to be taken as an indication of a desire that there shall be no regulation in the particular field affected and the other cases in which the states may act in such field until Congress acts has been drawn with some accuracy, it is not always easy to apply the principles to the facts of a given case. The principles governing the matter were laid down by the Supreme Court of the United States in the case of *Corington & Cincinnati Bridge Co. vs. Commonwealth of Kentucky*, 154 U. S. 204. It was held in that case that the state of Kentucky has no power to establish rates of toll over

a bridge built over the Ohio River between the states of Kentucky and Ohio. At page 209, Mr. Justice Brown uses the following language:

"The adjudications of this court with respect to the power of the states over the general subject of commerce are divisible into three classes. First, those in which the power of the state is exclusive; second, those in which the states may act in the absence of legislation by Congress; third, those in which the action of Congress is exclusive and the states can not interfere at all.

"The first class, including all those wherein the states have plenary power, and Congress has no right to interfere, concern the strictly internal commerce of the state. While the regulations of the state may affect interstate commerce indirectly, their bearing upon it is so remote that it can not be termed in any just sense an interference."

Mr. Justice Brown then gives a large number of classes of cases as to which the states have exclusive power. He then, at page 211, refers to another large class of cases of concurrent jurisdiction, in which cases the state government may act until the Federal Government legislates in the field. Referring to the third class of cases in which the action of Congress is exclusive and in which a failure of Congress to act is equivalent to a declaration that there shall be no regulation in such field, Mr. Justice Brown says, at page 212:

"But wherever such laws, instead of being of a local nature and not affecting interstate commerce but incidentally are national in their character, the non-action of Congress indicates its will that such commerce shall be free and untrammelled, and the case falls within the third class—of those laws wherein the jurisdiction of Congress is exclusive."

The test seems to be whether the matter is of a local nature or national in its character. In the former case, the states may act until Congress enters the field, while in the latter case the states may not act at all. In a large number of cases the courts have held that the states have the right to act in the absence of action by Congress, even though the action be within a field as to which the Federal Government, if it so desired, might exercise exclusive jurisdiction. State legislation has been sustained in such cases with reference to the regulation of pilots—*Cooley vs. Philadelphia Port Wardens*, 53 U. S. (12 How.) 298; *Pacific Mail Steamship Co. vs. Joliffe*, 69 U. S. (2 Wall.) 450.

The regulation of wharves, piers and docks—*Ouachita Packet Company vs. Aiken*, 121 U. S. 444; the construction of dams and bridges across the navigable waters of a state—*Escanaba Company vs. Chicago*, 107 U. S. 678; the regulation of a delivery of interstate telegraph messages—*Western Union Telegraph Company vs. James*, 162 U. S. 650, *Western Union Telegraph Company vs. Croco*, 220 U. S. 364; the examination of railroad engineers engaged on interstate runs—*Smith*

vs. *Alabama*, 124 U. S. 465; the heating of steam cars engaged in interstate commerce—*New York, New Haven & Hartford Railroad Co. vs. New York*, 165 U. S. 628; quarantine and inspection laws—*Missouri, Kansas & Texas Railway Co. vs. Haber*, 169 U. S. 613; and the prevention of discriminations in switching privileges—*Missouri Pacific Railway Co. vs. Larabee Flour Mills Co.*, 211 U. S. 612. For an extended reference to other cases to the same effect, see the *Covington & Cincinnati Bridge Company* case, *supra*, where Mr. Justice Brown collects the leading cases which had been decided up to 1894.

Within the last year or two the Supreme Court of the United States has again announced these principles and applied them in a number of important decisions.

In the *Second Employer's Liability Cases*, 223 U. S. 1, it was held that until Congress acted upon the subject, the several states had the right to determine the liability of interstate carriers for injuries to their employees while engaged in such commerce, but that after Congress had acted, its regulation superseded those of the states in so far as the same subject was covered. Referring to this point, Mr. Justice Van Devanter, in delivering the opinion of the court, says at page 54:

"True, prior to the present act, the laws of the several states were regarded as determinative of the liability of employers engaged in interstate commerce for injuries received by their employees while engaged in such commerce. But that was because Congress, although empowered to regulate that subject, had not acted thereon, and because the subject is one which falls within the police power of the states in the absence of action by Congress (citing numerous authorities)."

In the case of *Southern Railway Company vs. Reid*, 224 U. S. 424, the question at issue was the validity of a statute of North Carolina requiring the agents and officers of railroads and other transportation companies to receive freight for transportation whenever tendered at a regular station and to forward the same promptly by a route selected by the person tendering the same, with a penalty of \$50.00 for each day of refusal, together with damages. The action in the court below was to recover penalties by reason of the failure of the defendant railway company for four days to receive and transport North Carolina goods destined to West Virginia. Judgment for the plaintiff was reversed by the Supreme Court in its decision rendered on January 9, 1912, but only for the reason that the court found that Congress, by enacting the Interstate Commerce Law, had covered the field. After referring with approval to the case of *Missouri Pacific Railway Co. vs. Larabee Mills*, *supra*, Mr. Justice McKenna, in delivering the opinion of the court, says at page 437:

"The principle of that case, therefore, requires us to find specific action either by Congress in the Interstate Commerce Act or by the

Commission covering the matters which the statute of North Carolina attempts to regulate. There is no contention that the Commission has acted, so we must look to the act. Does it, as contended by plaintiff in error, take control of the subject matter and impose affirmative duties upon the carriers which the state can not even supplement? In other words, has Congress taken possession of the field?"

The court found that Congress had taken possession of the field, and consequently declared the North Carolina statute unconstitutional in so far as it might be construed to apply to interstate commerce.

In the case of *Savage vs. Jones, State Chemist of Indiana*, 225 U. S. 501, the Supreme Court of the United States considered the validity of the Indiana Pure Food and Drug Act, in so far as it seeks to compel the publication of the ingredients of foods and drugs sold in Indiana, even though the same might come into the state by interstate commerce. Mr. Justice Hughes, in delivering the opinion of the court, on June 7, 1912, points out at page 531, that the Federal Pure Food and Drug Act does not require the disclosure of the ingredients of food or drugs, except in special cases, but that its penalties apply only to the misbranding or adulteration of food or drugs. At page 534, Mr. Justice Hughes uses the following language with reference to the relative powers of the Federal and State governments over this subject-matter:

"Undoubtedly Congress, by virtue of its paramount authority over interstate commerce, might have said that such goods should be free from the incidental effect of a state law enacted for this purpose. But it did not so declare. * * * Is, then, a denial to the state of the exercise of its power for the purpose in question necessarily implied in the Federal statute? For when the question is whether a Federal act overrides a state law, the entire scheme of the statute must, of course, be considered, and that which needs must be implied is of no less force than that which is expressed. If the purpose of the act can not otherwise be accomplished—if its operation within its chosen field else must be frustrated and its provisions be refused their natural effect—the state law must yield to the regulation by Congress within the sphere of its delegated power (citing cases)."

Mr. Justice Hughes then continues as follows:

"But the intent to supersede the exercise by the state of its police power as to matters not covered by the Federal legislation is not to be inferred from the mere fact that Congress has seen fit to circumscribe its regulation and to occupy a limited field. In other words, such intent is not to be implied unless the act of Congress, fairly interpreted, is in actual conflict with the law of the state (citing numerous cases)."

In the case of *Adams Express Company vs. Croninger*, 226 U. S. 491, in which the decision of the Supreme Court was rendered on January 6, 1913, it was held that until Congress has acted upon the subject,

the liability of a carrier, although engaged in interstate commerce, for loss or damage to property may be regulated by state laws. The court held, however, that section 20 of the Interstate Commerce Act as amended on June 29, 1906, had covered the field and that consequently the Kentucky statute in question was no longer applicable to loss or damage on interstate shipments. At page 503 of the opinion, Mr. Justice Lurton expresses the conclusion that the state law would have governed if it had not been for the amendment of the Interstate Commerce Act of June 29, 1906, generally known as the Carmack amendment.

Finally, in the so-called *Minnesota Rate Cases*, in which the decision of the Supreme Court was announced on June 9, 1913, Mr. Justice Hughes reviews at length all the authorities on this question, and in holding that until Congress acts, if it has the right to act, the states may continue to fix intrastate rates even if interstate rates are affected thereby, uses the following language:

"If this authority of the state be restricted, it must be by virtue of the paramount power of Congress over interstate commerce and its instruments; and, in view of the nature of the subject, a limitation may not be implied because of a dormant Federal power, that is, one which has not been exerted, but can only be found in the actual exercise of Federal control in such measure as to exclude this action by the state which otherwise would clearly be within its province."

It was contended in these cases that the action of the state of Minnesota in establishing intrastate rates which had a direct effect on interstate rates was an invasion by the state of the field of interstate commerce, which field had been covered by Congress when it enacted the Interstate Commerce Act. Mr. Justice Hughes, however, holds that the existence of the power in the Federal Government is not sufficient to bar the states, but that they may continue to act until the "actual exercise of the Federal control in such manner as to exclude this action by the state which otherwise would clearly be within its province."

The distinction running through all these cases, as has hereinbefore been said, is that between such regulations as are local in their character and such as are necessarily national. It seems clear that the regulation of the rates of the defendant in this case is a matter purely local in its character and that consequently the state may continue to act, even if this be deemed "commerce with foreign nations," at least until the Federal Government has covered the field. The commerce affected concerns no state of this Union other than California, nor does it concern any foreign nation. This is not a case of commerce between a point in one state and a point in another state, in which case, if one state has the right to fix the rate, the other state has the same right,

thereby producing endless confusion. Such a case is clearly one for the national government and it is accordingly undoubted law that no state has the power to fix an interstate rate. This conclusion, however, does not apply to a case in which one state alone is involved and in which the regulation of rates by that state can have no effect on any other state. While a portion of the voyage is on the high seas, the navigation thereof is merely incidental to the real purpose of the voyage, which is to ply between two ports both of which are located in the same county in this State. The matter is one purely local to the State of California. Accordingly, under the principles which have been abundantly established, as hereinbefore indicated, the State of California, in my opinion, clearly has the right to regulate the rates for such commerce, at least until the Federal Government sees fit to act.

While I have fully examined this second point, I do not wish to be understood as believing that it is necessary to do so to decide this motion.

In the absence of language in the decision, I would say unhesitatingly that it would not have been necessary to examine this point, for the reason that it seems impossible to understand how the commerce affected may by any proper use of the English language be said to be "commerce with foreign nations."

I accordingly recommend that the motion to dismiss the complaint be denied and that this Commission proceed in the exercise of its authority, clearly granted by the constitution and statutes of this State, to call upon the defendant to satisfy the complaint or to answer within ten (10) days.

I submit herewith the following form of order:

ORDER.

Defendant's motion to dismiss the complaint in the above entitled proceeding having come on duly for hearing and argument having been had thereon, and said motion having been submitted,

It is hereby ordered that said motion be and the same is hereby denied and that the defendant be and he is hereby directed to satisfy the complaint or to answer within ten days.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of July, 1913.

DECISION No. 781.

CITY OF GLENDALE

vs.

TITLE GUARANTEE AND TRUST COMPANY, TRUSTEES, FOR
THE GLENDALE CONSOLIDATED WATER COMPANY.

Case No. 365.

CITY OF GLENDALE

vs.

MIRADERO WATER COMPANY.

Case No. 383.

Decided July 9, 1913.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

The defendants in each of the above entitled actions having applied for a rehearing in said actions and no good cause appearing why a rehearing should be granted,

It is hereby ordered that application for rehearing in each of the above entitled actions be and the same is hereby denied.

By order of the Railroad Commission.

Dated at San Francisco, California, this 9th day of July, 1913.

DECISION No. 782.

JOHN NIVEN

vs.

SAN DIEGO ELECTRIC RAILWAY COMPANY AND POINT
LOMA RAILROAD COMPANY.

Case No. 402.

Decided July 10, 1913.

Complaint alleges unreasonable rates and inadequate service on lines of San Diego Electric Railway and Point Loma Railroad Company between San Diego and Point Loma and Ocean Beach.

Held, as defendants operate within the city limits of San Diego this Commission has no authority over their rates.

Held, as defendants operate within the city limits of San Diego, this Commission has

E. L. Thomas and John Niven, for Complainant.

R. G. Dilworth, for Defendants.

W. R. Cushman, for Ocean Beach Improvement Club.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

The complaint in this case was filed on May 29, 1913, and states two grounds of complaint. The first ground is that the rates of fare charged by the defendant companies over their through route between San Diego on one end of the line and Point Loma and Ocean Beach on the other are excessive and unreasonable. The other ground is that the service is not adequate, particularly in that cars are run only every forty minutes, whereas the traffic warrants a service of not to exceed twenty minutes.

The answer was filed on June 26, 1913. With reference to the question of rates, it alleges that the defendant railway companies both of them operate exclusively within the limits of the city of San Diego and that the right to regulate fares thereon rests exclusively with the city of San Diego. With reference to the service, the defendant alleges that a twenty-minute headway to Ocean Beach would be impracticable without extensive alterations on the track of the Point Loma Railroad Company and the purchase of a large amount of new equipment; that the defendant San Diego Electric Railway Company has no such control over the affairs of the Point Loma Railroad Company as to require it to incur this large additional expense; and that the Point Loma Railroad Company is now making certain alterations and additions in the matter of sidetracks to its system, and is experimenting with a twenty-minute headway, and expects to be able on or about the first day of July, 1913, to establish a twenty-minute headway on Sundays and holidays.

The hearing in this matter was held in the city of San Diego on July 5, 1913. The evidence shows that the San Diego Electric Railway Company is the electric street railway of the city of San Diego; that at what is known as Winder street in the city of San Diego it connects with the Point Loma Railroad Company, which company owns a line of railroad extending from said Winder street to Point Loma and Ocean Beach, within the city of San Diego; that the stock in both corporations is owned by J. D. and A. B. Spreckels, and that they are operating under a common control and management, although separate accounts are kept with reference to operations over the lines of each of the defendant railway companies.

The defendants' contention with reference to the rate of fare is correct. The provisions of section 23 of article XII of the Constitution of this State, as amended on October 10, 1911, giving to the legislature authority to confer upon the Railroad Commission the power to supervise and regulate public utilities, specifically provides that the incorporated cities and towns of the State shall retain such powers of control as might be vested in them over public utilities until the electors of such incorporated cities or towns should, at an election held for that purpose, vote to confer their powers upon the Railroad Commission. Section 19 of article XI of the Constitution of this State, as also amended on October 10, 1911, specifically gives to municipal corporations in this State the right to regulate the charges of the classes of public utilities therein specified, including those who supply their inhabitants with "transportation." While this section probably has no application to steam railroads, there is no doubt that it applies to street railroads. The city of San Diego accordingly had the power to regulate the rates for transportation to be charged by street railroads within its limits, and this power the city still retains. If the complainants desire relief with reference to this matter, they must address themselves to the city council of the city of San Diego, which body alone has authority over the matter.

With reference to service, the issues were narrowed to the single question of the headway which should be maintained between San Diego on the one end and Point Loma and Ocean Beach on the other. It appears that prior to June 22d a forty-minute headway was maintained, but that on said day a twenty-minute schedule for Sundays and holidays was put into effect. During week days, however, the forty-minute schedule was maintained until July 2d, three days prior to the hearing, on which day a new schedule providing for a twenty-minute headway between 6.20 p. m. and midnight was put into effect.

It appears that of late the traffic to and from Ocean Beach and Point Loma has been increasing considerably, particularly since the commencement of the construction in Ocean Beach of an amusement park, which has employed many men in its construction and which will doubtlessly henceforth attract a large traffic. The defendant companies stated that they would give the public such service as might be necessary, and that they would operate all the additional cars which such service might demand.

At the hearing defendants stated that on hearing the testimony they had become convinced that it would be necessary to establish a twenty-minute headway, beginning at an earlier period in the evening, and also during a portion of the morning hours. This admission narrowed the controversy to the question whether a twenty-minute headway should also be established during the remaining hours of the

day. While there was some testimony on behalf of the defendants with reference to the need of constructing additional sidetracks and to an expenditure of some \$387,000.00, which would have to be incurred in case a three-minute service were given, which service the defendants believe may ultimately be necessary, it appeared also that no additional sidetracks would have to be installed to enable the defendants to give a twenty-minute headway at all times, and that the only additional expense would be the expense of operation. At the request of the Commission, the defendant filed tabulations for the months of April, May and June, showing a record of the passengers carried between the points affected during said months. These tabulations show such a number of passengers traveling during the middle of the day as to justify a twenty-minute headway during that portion of the day, as well as during the morning and evening hours. The defendants' general manager frankly stated that because of the amusement park at Ocean Beach and of the growth of the territory, it might soon be necessary to establish a twenty-minute schedule all day, and I am convinced from the record of passengers which have moved during the last three months that the time for the establishment of this service has arrived. The defendant companies fully realize that in time a more frequent service will have to be established, and will doubtlessly take such steps as may be necessary to establish such more frequent service when the need therefor becomes sufficiently apparent.

I recommend the following form of order:

ORDER.

The complaint in the above entitled proceeding having been duly heard, at a public hearing, and it appearing to the Commission that it has at present no authority over the question of the rates of fare charged by the defendant companies for operations entirely within the limits of the city of San Diego, and it appearing further, that the service maintained by the defendant companies in the operation of their cars between the city of San Diego and Point Loma and Ocean Beach is inadequate and insufficient in so far as it does not provide for a headway of at least twenty (20) minutes on their respective lines during each week day, as well as on Sundays and holidays,

It is hereby ordered that the defendants be and they are hereby directed to establish and maintain a daily headway of at least twenty (20) minutes on their respective lines of railway between the city of San Diego and the towns of Point Loma and Ocean Beach, and to file with this Commission within ten (10) days from the service of this order, time-tables showing the establishment of such headway.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of July, 1913.

DECISION No. 783.

IN THE MATTER OF THE APPLICATION OF THE ECONOMIC GAS COMPANY FOR AN ORDER APPROVING AN ISSUE OF BONDS OF SAID CORPORATION OF THE FACE VALUE OF NINE HUNDRED AND THIRTY THOUSAND DOLLARS.

Application No. 500.

Decided July 10, 1913.

Applicant after issuing bonds without the consent of the Commission and the Commission's attention having been drawn to same, applies for permission to issue bonds of the face value of \$930,000.00.

Held, That of applicant's issue of \$930,000.00 face value of bonds, \$635,000.00 has been illegally issued subsequent to March 23, 1912, and applicant ordered to cancel same.

Held, Applicant permitted to issue bonds of the face value of \$270,000.00, proceeds to be used in payment of \$233,792.05 subsisting indebtedness heretofore incurred.

Chickering & Gregory, for Applicant.

Lucius P. Greenc, for certain consumers, Protestants.

Herbert J. Goudge and Paul Overton, for Los Angeles Gas and Electric Corporation, Protestant.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

On December 20, 1912, the attention of this Commission was directed to the fact that the applicant herein had issued certain bonds without complying with the provisions of the Public Utilities Act. On investigation such was found to be the fact, and on January 9, 1913, applicant was instructed to appear before this Commission and make whatever showing it desired in this matter, and the present application is the result of this action.

The company urges that whatever violation of law it may have committed is due to a misconception of its rights. It is my belief, however, from the evidence in this case that it was the design of this

applicant to evade the provisions of the Public Utilities Act, which induced it initially to take the steps which have brought about its present condition. Yet, while this is true, and this applicant and its officers have violated the provisions of the Public Utilities Act, I do not believe that a denial of the application on this ground is imperative. Since the matter has been formally before the Commission there has been a complete submission to the Commission's authority by the company and its officers, and the regulation of this company's affairs is now well within this Commission's powers.

Two protests were filed against the granting of this application, one by Jacob Swallow, Mae Laws and Clarence W. Martin, consumers of the company, represented by Lucius P. Greene, and the other by the Los Angeles Gas and Electric Corporation, which also serves the territory served by applicant. The good faith of the former protest was questioned by the applicant and no appearance was made at the final hearing by these protestants.

The protestants asked that the application be denied on the following grounds:

1. That the approval of bonds as applied for would authorize plant duplication and perpetuate a so-called economic fallacy.

2. That \$695,000.00 of the \$930,000.00 of bonds were issued subsequent to March 23, 1912, without the approval of this Commission, and, therefore, were illegally issued.

3. That the properties of Economic Gas Company are insufficient to justify a bond issue in the sum of \$930,000.00.

4. That the earnings and income of Economic Gas Company are insufficient to justify an issue of bonds as applied for.

5. That the Commission has not the authority under the Public Utilities Act to approve an issue of bonds subsequent to such issue.

In the main these objections embrace the points of the Commission's usual inquiry, particularly as to Nos. 3 and 4. I shall consider these various objections seriatim.

Los Angeles Gas and Electric Corporation urges that the authorization of these bonds would mean plant duplication. Economic Gas Company was organized in 1909 and purchased the properties of the People's Gas and Coke Company. It entered the territory, therefore, at the time when the laws of the State did not require it to secure the permission of any State authority, and proceeded to make whatever duplication exists in a legal manner, and this duplication now exists, and it is not within the power of this Commission to prevent it. Having franchise to operate within the city of Los Angeles, which does not confine its field of operation to any particular portion of the city, the Commission has heretofore taken the position that extensions within the city by a company already authorized to

operate therein are questions for the city to determine. I can not see, therefore, that plant duplication is an issue at this time.

Illegal issue of bonds: On January 9, 1913, Mr. L. P. Lowe, president of the Economic Gas Company, on the matter being brought to his attention by the Commission, reported to the attorney of this Commission, Commissioner Thelen, that \$1,445,000.00 par value of bonds were turned over on March 19, 1912, by the Economic Gas Company to the California Light and Fuel Company, which latter company is controlled also by Mr. Lowe. Mr. Lowe at this time stated that these bonds had been turned over to California Light and Fuel Company under a contract under which the latter company paid \$83,333.33 cash for bonds of the face value of \$100,000.00, and also secured the right up to a time specified of selling the bonds of the Economic Gas Company as agent, and then of turning the proceeds over to the Economic Gas Company. In this way, according to the report then made by Mr. Lowe, bonds of the face value of \$459,000.00 were sold subsequent to March 23, 1912, without securing the consent of this Commission. This contract, Mr. Lowe stated, had been entered into on the advice of his attorney.

A careful inspection having been made of the books of the company by the Commission's auditor, it was found that up to March 23, 1912, there had been issued altogether by the Economic Gas Company bonds to the amount of \$295,000.00, and since that time the issue has been increased by \$635,000.00, making a total amount of \$930,000.00 face value, for the issuance of which the approval of this Commission is now asked. Because of the fact that this contract was entered into by this applicant with a corporation controlled by the same parties as control the applicant, on the 19th day of March, 1912, leads me to believe, as I have already stated, that the design of this applicant was to get around the provisions of the Public Utilities Act. It may well be, as stated at the hearing, that there was no design to violate the law, and a belief that the procedure followed would not constitute a violation, but the facts are that it was desired to circumvent the law, and the distinction is purely technical. This applicant did not intend to submit itself originally to the jurisdiction of the Commission, and adopted this method of attempting to issue its bonds just before the effective date of the Public Utilities Act, so that it might thereafter be freed from the restraint to which other utilities are subjected. This procedure on the part of public utilities has heretofore been commented on by this Commission, and it is not necessary to add here to what has already been said in this regard. The fact that the applicant is mistaken as a matter of law and has not succeeded in escaping the power of regulation of the State on a technicality does not, in my mind, put it in any worse position than though it had accomplished

the result desired, and it and its officers could not complain if all the penalties provided by the Public Utilities Act should attach. The successful evasion of the law, in my mind, is no less culpable than its violation.

The fact that the applicant has not been able to evade legal regulation, and that no harm has been done to the public by its action, persuades this Commission to take its present course, but it does not, as already stated, excuse the utility for its attempted violation of the law.

I find from the evidence that of the \$930,000.00 issued, for which the approval of this Commission is desired, \$635,000.00 par value has been illegally issued since March 23, 1912, and therefore, under the provisions of the law, is void and constitutes no obligation against the property of this company. Of this illegal issue \$270,000.00 was for refunding indebtedness of \$225,000.00, leaving a balance of \$365,000.00 issued for alleged capital expenditures since March 23, 1912.

While, of course, this Commission has no authority to render a void act valid, and the bonds illegally put out hereunder are, of course, not issued at all, yet this fact does not at all interfere with the Commission's power to consider the matter *de novo*, and to authorize or refuse to authorize the issue of \$635,000.00, for which its approval is now sought, and having determined that the public interest has not been adversely affected by the attempted illegal act of this applicant, I shall consider the matter the same as though the applicant were before the Commission in the regular way, and the question is whether or not the condition of this company's property is such that it should be allowed to issue bonds of the par value of \$635,000.00 in addition to its present indebtedness.

The Commission has before it several estimates of the value of applicant's property, but before considering these it is well to state briefly the history of this applicant so as the better to understand its present condition.

Some years ago People's Gas and Coke Company, predecessors of the applicant, was serving a certain portion of the territory in Los Angeles. Geo. H. Hayes was the principal owner of this corporation. It was seriously involved in litigation. Finally, the property was sold under foreclosure, and Mr. Hayes purchased it. The applicant, Economic Gas Company, was then formed and issued \$1,500,000.00 of stock and authorized the issue of \$1,500,000.00 of bonds. Mr. Lowe took the stock and has since sold a considerable portion of it, but none of the proceeds of such sales have gone into the treasury of the company, and Mr. Lowe still controls approximately two thirds of the capital

stock. Bonds were issued from the authorized issue, according to the testimony, as follows:

| | | | |
|-----------------|-------|-----------|---------------|
| January, 1910 | ----- | \$175,000 | issued at par |
| March, 1910 | ----- | 10,000 | issued at par |
| December, 1910 | ----- | 50,000 | issued at par |
| December, 1911 | ----- | 12,000 | issued at 83½ |
| December, 1911 | ----- | 12,000 | issued at 83½ |
| January, 1912 | ----- | 48,000 | issued at 83½ |
| March, 1912 | ----- | 60,000 | issued at 83½ |
| July, 1912 | ----- | 130,000 | issued at 83½ |
| August, 1912 | ----- | 19,000 | issued at 83½ |
| September, 1912 | ----- | 30,000 | issued at 83½ |
| November, 1912 | ----- | 270,000* | |
| December, 1912 | ----- | 6,000 | issued at 83½ |
| January, 1913 | ----- | 60,000 | issued at 83½ |
| March, 1913 | ----- | 60,000 | issued at 83½ |

All of the transactions occurring subsequent to March 23, 1912, were handled by the California Light and Fuel Company, which Mr. Lowe also controls. It is strenuously contended by Mr. Lowe that the \$234,000.00 paid for the property did not represent its entire value. What other value there was in this property does not appear to me, and we have a right under the law to assume that this represents the entire value of the property at that time, but in order that entire justice might be done to the applicant, the Commission has gone carefully into its property valuations, independent of its stock and bond operations, and has several estimates of value before it. Mr. Lowe estimates the value of the property at from \$1,000,000.00 to \$1,100,000.00, not including property on consumers' premises and the cost of getting business, and including these latter items, Mr. Lowe places an estimate from \$1,117,000.00 to \$1,217,000.00 as the value of his property, which is purely an estimate and will be considered as such. Mr. Kelley of the Commission's engineering department made an independent appraisal and valuation, and his reproduction estimate, including installation on consumers' premises, amounts to \$986,364 00, and this estimate depreciated to present value, including installation on consumers' premises, amounts to \$800,252.00. Mr. F. C. Millard, an engineer employed by the applicant, places the reproduction value new at \$1,280,965.54, not including installations on consumers' premises, and a present value of \$1,139,247.32. The actual cost of this property to applicant, if we may take the sale of bonds and the money realized therefrom as a guide, is as follows:

| | | |
|--|-------|--------------|
| \$235,000 of bonds sold at par | ----- | \$235,000 00 |
| \$299,000 of bonds sold at 83½ | ----- | 249,150 00 |
| \$270,000 of bonds in exchange for notes given and assumed by the company at the time of purchase of the property originally | ----- | 233,792 05 |
| \$126,000 of bonds sold at 83½ | ----- | 105,000 00 |

*Issued to take up a \$225,000.00 note which had been given by the company to Mr. Hayes, the original owner, and \$9,000.00 indebtedness assumed.

making a total issue of bonds of \$930,000.00, from which there was realized \$822,942.05. It will be noted that this latter figure corresponds quite closely with the depreciated reproduction value of \$800,252.00 found by Mr. Kelley.

In this present value, however, there is included an allowance for installations on consumers' premises. These installations do not include meters or service, but appliances such as lamps and stoves, which are given the consumers on a "free rent" basis as long as they purchase gas from the Economic Gas Company. I do not believe that such property affords a proper security for an issue of bonds. It is of rapid depreciation and is being worn out by the consumers, and remains for all practical purposes the property of the consumer as long as he remains a consumer of the company, and only reverts to the company's control when the consumer is lost, and then, of course, in a second-hand condition. The cost of these appliances is for all practical purposes an operating expense or a part of the cost of getting the business, and not strictly, though perhaps legally, a capital expense. The applicant reports an expenditure for these installations in the sum of \$117,978.00. Mr. Kelley has allowed the applicant under his present value \$70,787.00 for these installations. Whatever their value is, it is my belief that it should be deducted from the capital to be considered for bond issue purposes. Taking the smaller amount attributed to these appliances by Mr. Kelley, and deducting it from his present value of \$800,252.00, we get a balance of \$729,465.00.

Mr. Kelley has depreciated the other property of the company quite heavily, and it is well known that certain portions of such gas properties depreciate rapidly, and I have no doubt that Mr. Kelley's estimate is correct; but in order to be liberal with the applicant, we might accept the smaller percentage of depreciation suggested by Mr. Millard, thereby adding approximately \$50,000.00 to the value of the property and getting a present value in the neighborhood of \$800,000.00, which is approximately what the property should be worth from the original cost basis if depreciation has been taken care of. It is, therefore, apparent that the bond issue of \$930,000.00, which will be the total amount outstanding against this company, to say nothing of the stock, if this application is granted, is in excess of what this Commission can allow, and the application in part at least must be denied.

Before finally determining what, if any, part of this bond issue should be permitted, it is well to consider the earnings of this company. The earning statement submitted by Economic Gas Company shows losses for 1910 and 1911, and an ostensible profit for 1912 of \$8,336.61. There is an accumulated deficit of \$35,091.73. If a proper proportion of the investment of \$117,978.00 in installations on consumers' premises were charged to operation, this deficit would be far greater.

Besides, the applicant has not properly considered depreciation, and I conclude that if proper depreciation charges were made and the installation account properly handled, that instead of a surplus of \$8,336.61, which applicant claims for 1912, it would show a substantial deficit. Adopting Mr. Kelley's suggestion of 20 per cent depreciation on these appliances, which from their nature would readily be seen not to be too high, the accumulated deficit, instead of \$35,091.73, would be in the neighborhood of \$90,000.00.

It appears, therefore, that although the Economic Gas Company is improving annually as a property and has increased its gross sales from \$49,250.94 in 1910 to \$94,571.29 in 1911 and to \$199,734.76 in 1912, it has not yet reached a point where it can be properly said to take care of its necessities. It would, therefore, appear as true that the earnings of the Economic Gas Company are insufficient to warrant the bond issue in the sum of \$930,000.00.

There are several other matters which deserve comment before finally disposing of this application. This company carries a heavy item in accounts receivable, which probably represents the amount due on its bonds now held by Mr. Lowe and the California Light and Fuel Company under the contract of sale entered into between the applicant, Mr. Lowe, and the California Light and Fuel Company. I have already commented on this matter, and it constitutes in my mind a mere attempt at evasion, and neither Mr. Lowe nor the California Light and Fuel Company own these bonds, and they should be placed in the treasury of the Economic Gas Company until they are properly issued and sold. This is not the first time we have found two companies controlled by the same agencies engaging in this financial flim-flam with an apparent design to profit individuals at the expense of the utility. It also should be noted that in addition to the \$930,000.00 bonded indebtedness sought to be authorized there is a floating indebtedness of approximately \$80,000.00, and a \$20,000.00 mortgage on a portion of this company's land. This will raise its indebtedness, if this application should be granted, to approximately \$1,030,000.00. It has current assets of approximately \$30,000.00. If this application should be granted there would be a discount approximately of \$113,000.00 on the sale of the bonds which should be amortized. If the application is granted for a less amount than applied for, of course, the amount to be amortized would be correspondingly decreased. It also appears that depreciation has not been properly maintained, and large expenditures for operation have improperly been treated as capital.

I have severely criticised the applicant for its method heretofore pursued, but whatever was its original intention, I believe that it has now placed itself completely under the jurisdiction of the Commission

and has made every endeavor to acquaint the Commission with the condition of its affairs.

Of the \$635,000.00 of bonds which have been illegally issued, \$270,000.00 were for refunding, leaving \$365,000.00 which the Commission is called upon to approve for additions and betterments. The approval, if given, would, therefore, be in this form:

| | |
|---|--------------|
| For refunding indebtedness heretofore incurred..... | \$270,000 00 |
| For betterments and additions..... | 365,000 00 |

The other bonds in the sum of \$295,000.00 were issued prior to March 23, 1912, and are, in my opinion, subsisting and legal obligations against the property of this company which must be recognized. I believe that the \$270,000.00 issued for refunding purposes should be approved. This, with the \$295,000.00 heretofore issued, will make a total outstanding bonded indebtedness of \$565,000.00. Adding to this, \$20,000.00 mortgage on land, gives us \$585,000.00. Thus it will be seen that on a valuation of \$800,000.00 with this part of the application granted, this company would already have outstanding obligations approximating 73 per cent of the value of its property, to say nothing of the stock issued of \$1,500,000.00, all of which is outstanding, and for which nothing has been realized by the company.

While, if this company had been financed as we think is proper and there was outstanding but 73 per cent bonded indebtedness against it, we probably would allow that indebtedness to be added to, yet under the circumstances of this case I do not believe it proper at the present time to permit indebtedness beyond this amount. To begin with, the money realized from the sale of the bonds attempted to be issued has gone into the property, and as soon as it appears that these supposed bondholders have no security they will necessarily take steps to enforce their rights against the company. In other words, the people who have given the money in return for these bonds illegally issued are in effect unsecured creditors of the corporation, and we have in addition to the 73 per cent bonded indebtedness outstanding unsecured indebtedness which makes it improper to permit a further incumbrance of this company. Besides, all of the stock has been issued and none of the benefits derived from such issue have gone to the corporation. While I do not discredit the testimony of Mr. Lowe that he thinks there was a substantial equity in the property beyond that for which it was purchased from Mr. Hayes, still even from Mr. Lowe's own estimate of the value of the property it will be seen that the issuance of the \$1,500,000.00 of stock to Mr. Lowe for this equity was not justified. While unquestionably the legal title to stock which has heretofore been appropriated by promoters of enterprises for which nothing has been paid into the treasury of the corporation is in such promoters or their assignees, yet the Commission is not impressed with the propriety of

such a procedure, notwithstanding. It always has been the design of the constitution and laws of this State that payment should be made into the treasury of a corporation for stock issued, and it does not change the design of the laws for corporation promoters to take this stock as their own property, sell it to the public and retain the proceeds as their own private funds. At the present time L. P. Lowe holds as his private property 8,130 shares, representing a par value of \$813,000.00, and holds as trustee 2,999 shares, representing a par value of \$299,900.00, thus controlling out of a total issue of 15,000 shares 11,129 shares, representing a par value of \$1,112,900.00. Before this company may realize any more money from bonds, particularly in view of its earning capacity and its illegal actions heretofore, it should be required to raise something from this stock. I do not desire at all to handicap this company in its operation, but when the entire capital stock is appropriated, as here, for a small and doubtful consideration, I am of the opinion that justice to the utility requires that money be realized therefrom if it is possible so to do.

I, therefore, recommend that no order be entered authorizing the issuance of \$365,000.00, which will be necessary to cover the amount attempted to be issued, and which is entirely void. The bonds referred to and attempted to be issued are as follows:

| | |
|--|------------------------|
| March 31, 1912—Hotaling Estate..... | \$60,000 issued at 83½ |
| July 30, 1912—Economic Gas Appliance Company.. | 30,000 issued at 83½ |
| August 31, 1912—D. O. Druffel..... | 15,000 issued at 83½ |
| August 31, 1912—S. W. Coleman..... | 4,000 issued at 83½ |
| September 30, 1912—W. F. Detert..... | 30,000 issued at 83½ |
| November 30, 1912—W. H. Chickering..... | 6,000 issued at 83½ |
| January 31, 1913—J. D. Grant..... | 60,000 issued at 83½ |
| March 21, 1913—L. P. Lowe..... | 60,000 issued at 83½ |

Of course this Commission has nothing to say nor authority over the right of action of the parties who bought these bonds in good faith, but the bonds are absolutely void under the law and these parties will either be compelled to make other arrangements with this company or to pursue whatever action they have for the return of the purchase money. As has already been said, the attitude of this company since the matter was brought formally before this Commission has been quite proper, and it has been because of this fact that the Commission has been disposed to be as lenient as it has in this regard, but we call attention to the fact that this Commission has no authority to excuse from prosecution even a technical violation of the law, and the proper law officers will have the right at any time to take such steps as they may deem necessary in this regard, and the action of this Commission shall not be taken in any wise as an approval of the actions of this company or as an excuse for such actions. We merely allow certain bonds to be issued which may be substituted for certain obligations paid

for by bonds that were attempted to be issued, and refuse to allow other bonds to be issued to pay for obligations heretofore assumed and purported to be satisfied by bonds illegally issued. This should be made very clear, and any provision of the order should be construed in contemplation of what is here said.

It is apparent that this company will be required to raise money from some source. I have already suggested that the proper source is from stock. If it can make arrangements with the purchasers of these void bonds to settle in the amount paid for said bonds, it will be required to raise a little over \$304,000.00, assuming that these purchasers are in fact purchasers in good faith. As a matter of fact, it is clear from the evidence that a considerable portion of these bonds are held for the purposes of sale to avoid the jurisdiction of this Commission, which accounts for the large book account to which I have already referred. Under all the circumstances I do not believe it will be very difficult for this company to arrange with the companies and individuals holding these bonds for their surrender, and in those cases where this can not be done it will be necessary, as I have already said, for this company to get the money for these purposes from its stockholders.

I submit the following order:

ORDER.

Economic Gas Company having applied to this Commission for an order authorizing the issue of five per cent 30-year bonds of the face value of \$930,000.00 out of an authorized issue of \$1,500,000.00, and for permission to apply the proceeds thereof to the payment of certain obligations heretofore incurred and attempted to be paid for from bonds heretofore attempted to be issued, but in fact void; and a hearing having been held and being fully apprised in the premises,

The Commission hereby finds as a fact that the applicant issued before March 23, 1912, \$295,000.00 of bonds and as a matter of law it follows that this Commission's approval to such issue is not required;

The Commission further finds as a fact that this applicant, since March 23, 1912, has attempted to issue bonds of the par value of \$635,000.00 and has attempted to make such issue without the permission of this Commission, and that the permission of this Commission has never been secured to the issuance of said \$635,000.00 of bonds;

The Commission further finds as a fact that this applicant has given over these void bonds to various parties, which said transactions are discussed in the opinion hereto;

The Commission further finds as a fact that this applicant purported to pay \$233,792.05 of indebtedness by an attempted issue of \$270,000.00 of bonds on November 30, 1912;

The Commission further finds as a fact that the proceeds from \$270,000.00 par value of bonds is reasonably necessary for proper capital purposes of applicant for refunding outstanding indebtedness,

And basing its order on the foregoing findings of fact and the further findings in the opinion hereto, *it is hereby ordered,*

1. That this applicant be permitted to issue \$270,000.00 par value of its five per cent 30-year first mortgage bonds and sell the same at 83 $\frac{1}{2}$ and use the proceeds thereof in the payment of \$233,792.05 subsisting indebtedness heretofore incurred for purposes other than income and operating expenses, representing a note to Geo. H. Hayes and other indebtedness incurred at the time of the purchase of the property of the People's Gas and Coke Company by the applicant. This provision of this order is contingent upon the following conditions precedent:

(a) This company shall rescind the action whereby it attempted to issue bonds of the par value of \$60,000.00 on March 31, 1912, sold to Hotaling Estate; bonds of the par value of \$30,000.00 on July 30, 1912, sold to Economic Gas Appliance Company; bonds of the par value of \$100,000.00 on July 30, 1912, sold to California Light and Fuel Company; bonds of the par value of \$15,000.00 on August 31, 1912, sold to D. O. Druffel; bonds of the par value of \$4,000.00 on August 31, 1912, sold to S. W. Coleman; bonds of the par value of \$30,000.00 on September 30, 1912, sold to W. F. Detert; bonds of the par value of \$270,000.00 on November 30, 1912, sold to Geo. H. Hayes; bonds of the par value of \$6,000.00 on November 30, 1912, sold to W. H. Chickering; bonds of the par value of \$60,000.00 on January 31, 1913, sold to J. D. Grant; bonds of the par value of \$60,000.00 on March 21, 1913, sold to L. P. Lowe; and the applicant shall further notify the present holders of said bonds of this action and of the fact that such bonds are void.

2. The applicant shall notify this Commission within thirty (30) days from the date of this order of the compliance therewith and of the issuance and acceptance by the holders in lieu of the \$270,000.00 of void bonds heretofore referred to, of the \$270,000.00 of bonds herein authorized, and the turning in by said holders of said void bonds, and shall further notify this Commission of its compliance in every respect with the provisions of this opinion and order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of July, 1913.

DECISION No. 784.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO WITHDRAW FROM CERTAIN TERRITORY AND CONSOLIDATED UTILITIES COMPANY TO CONDUCT A TELEPHONE SYSTEM THEREIN.

Application No. 565.

Decided July 10, 1913.

Application of the Pacific Telephone and Telegraph Company to withdraw, and the Consolidated Utilities Company to operate, a telephone system in and about the towns of Compton and Watts, granted.

H. D. Pillsbury and C. F. Mason, for the Pacific Telephone and Telegraph Company.

J. Lee Shepard, for the Consolidated Utilities Company.

Arthur Wright, for the United States Long Distance Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application involving the withdrawal of The Pacific Telephone and Telegraph Company from certain territory in and about Compton and the entrance of Consolidated Utilities Company into this territory, and the withdrawal of the latter company from certain other territory in and about Watts, and the entrance of the former company into this territory.

The hearing developed the fact that the Consolidated Utilities Company owns and operates a telephone system in the town of Compton, Los Angeles County, California, and is serving the territory in and adjacent to Compton from its Compton exchange, including approximately eight subscribers located at Watts Station.

The Pacific Telephone and Telegraph Company has only a toll station at Compton, and at Watts Station is serving approximately seventy subscribers, connected by means of suburban circuits with its Los Angeles exchange.

It was also developed at the hearing that the subscribers of the Consolidated Utilities Company located at points outside of Compton, and particularly those located at Watts Station, do not pay a toll charge on calls going to Compton, and that subscribers of The Pacific Tele-

phone and Telegraph Company, located also at Watts Station, talk to Los Angeles without payment of a toll charge.

The withdrawal of The Pacific Telephone and Telegraph Company from the field at Compton in favor of the Consolidated Utilities Company and the withdrawal of the Consolidated Utilities Company from Watts Station in favor of The Pacific Telephone and Telegraph Company will result in the elimination of free switching between Compton and Watts Station, since business between these towns will thereafter be handled over the toll system of either of the two companies. It will also eliminate the toll charge which the Watts Station subscribers of the Consolidated Utilities Company have heretofore been required to pay on Los Angeles business, and will establish free switching on business between Watts Station and Los Angeles.

That the elimination of free switching between the two communities of Watts Station and Compton would meet with more or less objection on the part of those whose personal interests are now served by this free service is evident. The hearing, however, did not develop objections on this ground sufficient to justify serious consideration, while on the other hand the larger community interest between Watts Station and Los Angeles, which it was also shown would benefit by the change, is sufficient indication that public necessity and convenience will be subserved thereby.

It was further established at the hearing that the Consolidated Utilities Company is under contract with the United States Long Distance Telephone and Telegraph Company for interchange of traffic, and it was thought possible that the proposed connecting agreement between the Consolidated Utilities Company and The Pacific Telephone and Telegraph Company, which is also designed to provide for interchange of traffic, may be in conflict with the former contract as effecting such interchange of traffic with the Consolidated Utilities Company. The application, however, provides, and it was also stipulated at the hearing, that the agreement herein referred to between the Consolidated Utilities Company and the United States Long Distance Telephone and Telegraph Company is to be continued without prejudice.

The elimination by the Consolidated Utilities Company of the former free switching privileges between Compton and Watts Station, and the placing of a toll charge on business between these localities, will necessitate the filing by the Consolidated Utilities Company with the Commission of toll rates which it is desired to apply on this business. This recommendation is made contingent upon the filing of such rate, and with the understanding that the rate to be charged shall be the same rate as is charged for similar service under similar conditions.

It was further developed at the hearing that the proposed connecting agreement between the applicants provides for the payment by The

Pacific Telephone and Telegraph Company to the Consolidated Utilities Company of 15 per cent of originating and three cents per message on incoming tolls. This Commission has repeatedly insisted that the division of toll revenues in the interchange of traffic shall be on the basis of not less than 30 per cent of originating tolls or the equivalent thereof divided between originating and incoming tolls. The order herein recommended is therefore made contingent upon this agreement being so altered as to provide for the payment by The Pacific Telephone and Telegraph Company to the Consolidated Utilities Company of not less than 30 per cent of originating tolls, or the equivalent thereof, as above provided.

In view of these developments the following order is recommended:

ORDER.

Application having been made by The Pacific Telephone and Telegraph Company and by the Consolidated Utilities Company, the former to withdraw from territory in and about Compton, Los Angeles County, and the latter to conduct a telephone system in the said same territory, and the latter also to withdraw from territory in and adjacent to Watts Station, Los Angeles County, and the former to conduct a telephone system in the said same territory, as defined in that certain proposed connecting agreement filed with this application, and a hearing having been held thereon and no reasonable objection appearing,

It is hereby ordered that the application of The Pacific Telephone and Telegraph Company and the Consolidated Utilities Company, the former to withdraw from and the latter to conduct a telephone system in and about Compton, Los Angeles County, California, and the latter to withdraw from and the former to conduct a telephone system in and adjacent to the town of Watts Station, Los Angeles County, as a public utility operating a telephone plant as hereinbefore provided, be and the same is hereby granted; provided that the proposed connecting agreement herein referred to be so modified as to provide for the payment by The Pacific Telephone and Telegraph Company to the Consolidated Utilities Company of not less than 30 per cent of originating tolls, or the equivalent thereof divided between originating and incoming tolls; and provided, further, that the present agreement between the United States Long Distance Telephone and Telegraph Company and the Consolidated Utilities Company, providing for the interchange of traffic, is to be continued without prejudice; and provided, further, that the rate to be charged its customers and patrons by the Consolidated Utilities Company for toll messages between Compton and Watts Station shall be the same rate as is charged for similar service under similar conditions; and it is further provided that this permission is not to be taken as approval of the rates, since this Com-

mission has not as yet passed upon their ultimate reasonableness. This order to be and become effective on the filing with and approval by this Commission of a revised connecting agreement on the part of the two companies involved, and a rate schedule providing for toll rates to be charged by the Consolidated Utilities Company to its customers and patrons for business between Compton and Watts Station, said filing to be made within thirty days of date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of July, 1913.

DECISION No. 785.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF THREE THOUSAND ONE HUNDRED FORTY-EIGHT SHARES OF ITS COMMON CAPITAL STOCK.

Application No. 591.

Decided July 10, 1913.

Applicant's amended petition asks for authorization to issue 2,830 shares of common stock par value of \$285,000.00.

Held, That applicant should use its large earnings on common stock to pay indebtedness to which the proceeds from the sale of this stock were to be applied. Application denied.

Frederic W. Stearns, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application of the San Diego Consolidated Gas and Electric Company for an order of this Commission authorizing the issue of 3,148 shares of applicant's common capital stock, at par. At the hearing the application was amended so as to ask authority to issue 2,850 shares of capital stock of the par value of \$285,000.00, these shares being the total remaining unissued shares of applicant's capital stock.

The purpose for which it is desired to issue the stock appears from the following language in the application:

"That since the first day of March, 1909, the date of the first mortgage bonds of your petitioner, there have been issued and

sold by your petitioner \$3,629,000.00 par value of said bonds. That none of said bonds were sold at par but the same were sold at various prices ranging from 91 to 95 and that only \$129,000.00 par value of said bonds were sold at 95. That by reason of the fact that your petitioner was unable to sell said bonds at par it has been obliged to provide from other sources the amount of the difference between the par value of its bonds and the amount realized from the sale of said bonds, which discount amounted on April 30, 1913, to \$314,800.00. That all of said sum of \$314,800.00 represents money actually expended by your petitioner in permanent extensions, improvements and additions to its plant, property and facilities made by it in order to enable it to furnish the service in the communities and territories wherein it is operating which it is required by law to furnish. That all of said sum has been so expended by your petitioner either out of its income or out of money borrowed by it and for which it is entitled under the customary practice in such cases, as your petitioner is advised and believes, to be reimbursed by the issuance of either stock or bonds. That under the terms of the trust indenture securing its said bonds it can not issue bonds for the purpose of so reimbursing itself. That in order to enable your petitioner to meet and pay its said indebtedness as the same becomes due and payable, it is necessary that your petitioner issue and sell its common stock for the purpose of reimbursing itself for the moneys so expended as aforesaid. That your petitioner is advised and believes that it can sell such common stock at par, and that if authorized to issue and sell 3,148 shares of its said common stock it can realize therefor the sum of \$314,800.00, which sum can at once be applied to the further reduction of its said indebtedness."

The petition then continues as follows:

"That your petitioner is carrying on its books a bond discount account, which said account your petitioner, if allowed to issue such common stock to be sold and applied upon its said indebtedness, can wipe out and discharge out of its income in equal annual installments extending over the remaining life of its said bonds."

If this application be regarded as an application for authority to issue capital stock for the difference between the face value of the bonds which applicant has received from its trustee and the amount for which those bonds have been sold, it is, in effect, an application for authority to capitalize bond discount, and if the application rests on this theory alone, it must be denied, for the reason that neither bond nor stock discount can be capitalized. Such discount must be amortized over a period of years out of earnings. The applicant itself, in effect, admits the correctness of this principle by its allegation that it is carrying on its books a bond discount account, which account it will wipe out and discharge out of its income if authorized to issue the common stock for which application is made. Under this Commission's accounting rules it is the duty of the applicant to wipe out this bond discount out of its

earnings, entirely irrespective of whether applicant is authorized to issue its common stock, in accordance with this application.

Thinking that perhaps the facts might warrant an authorization to issue this stock on some other ground, the Commission suggested that applicant file a statement showing the total amount of money spent for construction from the date of the purchase of the property and also a statement of the par or face value of stocks and bonds which have been issued since said time, and of the proceeds derived from the sale thereof. The Commission thought that possibly there might be a margin between the amount of money expended for construction during this period and the stocks and bonds which have been issued during the same period. This statement has now been filed and contains, among others, the following items:

| | |
|---|----------------|
| Total amount of money spent for construction from the date of purchase of the property to April 30, 1913----- | \$4,403,529 39 |
| Face value bonds issued----- | \$2,567,000 |
| Face value bonds authorized, Application No. 591 ----- | 180,000 |
| Face value debentures authorized, Application No. 344 ----- | 106,000 |
| Par value stock sold ----- | 1,522,600 |
| Total par or face value securities----- | \$4,375,600 00 |
| Receipts from sale of securities----- | \$3,980,150 |
| Depreciation and renewal fund expended----- | 177,750 |
| Total ----- | \$4,157,900 00 |

Applicant also claims the right to issue capital stock against redemption premium of \$180,000.00, which it paid to redeem the outstanding preferred stock. The Commission, however, can not authorize this to be done, in view of the fact that it is desired to capitalize a premium on stock. If a comparison be instituted between the total amount of money spent for construction since the purchase of the property and the face or par value of stocks and bonds issued during the same period, it will be found that the sums are almost the same. If the comparison be made between the total amount of money spent for construction and the proceeds from the sale of securities, together with the depreciation and renewal funds, it will be found that there is a difference in favor of the amount expended for construction amounting to \$245,629.39. In passing on the question whether any amount of stock should be authorized in a case in which it is not the intention to devote any of the proceeds thereof to adding to the property, it should be borne in mind, as pointed out in this Commission's decision No. 491 on Application No. 344, that during the year 1912, applicant declared a special dividend of \$255,600.00, in addition to the regular dividend of 7 per cent on its entire outstanding capital stock. While it is true that this dividend is alleged to cover the surplus of several years, it is equally true that if the preferred stock had not been called

in an additional special dividend for the year amounting to more than 27 per cent could have been declared. If these moneys had not been paid out in the shape of special dividends to the chief creditors of the applicant, which creditors are also the owners of the applicant's capital stock, it would not now be necessary to come before this Commission and ask for an authorization to issue capital stock. It should be remembered, also, that if the capital stock of the face value of \$285,000.00 is now authorized, applicant will expect to pay thereon its usual dividend of 7 per cent on all the capital stock amounting to the added sum of \$19,950.00 per year. We desire to point out, also, that on the basis of the regular dividend paid last year and on the proportion of the extra dividend chargeable to the year 1912, applicant's stock is worth considerably more than par. This statement is made on the basis of dividends paid and not on the basis of excess of property over bonded and other indebtedness. It should be distinctly borne in mind that applicant is not asking authority to issue capital stock for the purpose of securing money which it will then use to extend its plant. It desires to issue this capital stock so that it may pay a portion of its indebtedness, which indebtedness is owing chiefly to the Standard Gas and Electric Company, which owns its capital stock and which, in the year 1912, received the extra dividend of \$255,600.00 hereinbefore referred to. If this were an application to issue capital stock for the purpose of securing proceeds with which to pay for betterments and improvements which the applicant expects hereafter to make and to take care of the twenty-five cents on each dollar's worth of improvements for which applicant can not receive bonds from its trustee, an entirely different matter would be presented for the consideration of this Commission. In such event, the Commission would be inclined to authorize the issue of the stock.

If applicant would use its large earnings, running even in excess of 7 per cent on its common capital stock, to pay the Standard Gas and Electric Company, which owns its capital stock, and H. M. Byllesby & Company, which controls the Standard Gas and Electric Company, and which two companies are its chief creditors, it would not be necessary to make application for the issue of stocks or bonds to meet its outstanding indebtedness.

I recommend that the application be denied and submit herewith the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied to this Commission for authority to issue its common capital stock of the par value of \$285,000.00, and a public hearing having been held on said application, and the Commission finding that public convenience and necessity does not warrant the grant of said application,

It is hereby ordered that said application be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of July, 1913.

DECISION No. 786.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND
SOUTHEASTERN RAILWAY COMPANY FOR AN ORDER
AUTHORIZING AN ISSUE OF BONDS OF THE FACE
VALUE OF SIX HUNDRED THOUSAND DOLLARS.

Application No. 607.

Decided July 10, 1913.

Application of San Diego and Southeastern Railway Company to issue bonds of the face value of \$600,000.00, proceeds to be used in betterments and improvements.

Held, Applicant permitted to issue five per cent bonds of the face value of \$343,000.00. The balance of bonds asked for by applicant will be considered on filing hereafter of supplemental petition, stating expenditures desired for years 1914 and 1915.

R. G. Dilworth, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue applicant's five per cent thirty-year gold bonds of the total face value of \$600,000.00, partly to pay obligations which have heretofore been incurred for the acquisition of property and the construction, completion, extension and improvement of applicant's facilities, and partly to enable applicant to incur similar expenditures for the years 1913, 1914 and 1915, as will hereinafter appear in greater detail.

San Diego and Southeastern Railway Company was incorporated on March 2, 1912, under the laws of this State, for the purpose primarily of taking over and operating the properties owned by the San Diego and Cuyamaca Railway Company and the San Diego and Southern Railway Company in the county of San Diego. The San Diego and Cuyamaca Railway Company was incorporated on July 19,

1909, and was the successor of the San Diego, Cuyamaca and Eastern Railway Company, which company was incorporated on March 6, 1888, and of the San Diego and Cuyamaca Railway Company, which company was incorporated on August 30, 1887. The San Diego and Cuyamaca Railway Company, incorporated July 19, 1909, owned and operated what is known as the Cuyamaca Railroad, between San Diego and Foster, a distance of some 25.32 miles. The San Diego and Southern Railway Company was the successor of the National City and Otay Railway Company and of the Coronado Railroad Company. The National City and Otay Railway Company was incorporated on October 1, 1888, and was the successor of the National City and Otay Railway Company and of the Otay Railway Company. The National City and Otay Railway Company owned a main line of some 18.12 miles between San Diego and Tia Juana and a branch line of some 7.88 miles between Sweetwater Junction and La Presa. The Coronado Railroad Company owned a line of railroad about 21 miles in length, running around the bay of San Diego between San Diego and Coronado. The present applicant, in addition to these properties, owns also a connecting track about 1.22 miles in length between Coronado Junction and what is known as the National City and Otay Junction. The total operative property of the present applicant amounts to 73.54 miles.

Applicant's authorized capital stock consists of 50,000 shares of the par value of \$100.00 each, being a total of \$5,000,000.00. Of the stock so authorized, 16,500 shares, having a total par value of \$1,650,000.00, have been issued. No dividend has ever been declared. Such profits as have been made have been reinvested in the property.

The entire bonded indebtedness of the constituent companies of which applicant is the successor has heretofore been canceled and applicant has had no bonded indebtedness of its own. Applicant now proposes to authorize a bonded indebtedness of \$600,000.00 of five per cent thirty-year gold bonds of the following serial numbers and denominations:

| | | |
|--|--------------------------|--------------|
| Nos. 1 to 250, inclusive, face value | \$100 each, total----- | \$25,000 00 |
| Nos. 251 to 450, inclusive, face value | \$500 each, total----- | 100,000 00 |
| Nos. 451 to 925, inclusive, face value | \$1,000 each, total----- | 475,000 00 |
| Total ----- | | \$600,000 00 |

It is proposed to expend the proceeds of these bonds in the first instance to liquidate notes payable and amounts due for cash advanced in the sum of \$170,286.21, and to expend the proceeds of the remaining bonds for additions and betterments for the years 1913, 1914 and 1915. Attached to the application is a statement showing in detail the expenditures which have heretofore been incurred and also an estimate of the expenditures for the years 1913, 1914 and 1915. The statement shows

that applicant has outstanding two notes payable, one in the sum of \$10,000.00, now held by J. D. and A. B. Spreckels Securities Company and the other in the sum of \$25,000.00, held by the First National Bank of San Diego, and that it owes to J. D. and A. B. Spreckels Securities Company for cash advances made between October 9, 1912 and February 10, 1913, the sum of \$100,978.33. The statement also shows that the company has received income from operation between March 2, 1912, and January 31, 1913, in the sum of \$34,307.88, which income was placed back into the property in the form of construction and betterment expenditures. The total of notes payable, amounts due for cash advances and moneys expended from income between March 2, 1912, and January 31, 1913, is \$170,286.21. Attached to the application is a detailed statement showing moneys amounting to \$170,286.21 which have been expended for additions and betterments between March 2, 1912, and January 31, 1913, which statement has been carefully checked over by this Commission's engineering department and found to be reasonable.

Applicant has attached to the application a statement showing proposed addition and betterment expenditures during the year 1913, subsequent to January 31, 1913. The details of these items are as follows:

| | |
|--|---------------------|
| 2 locomotives | \$23,000 00 |
| 60 flat cars and box cars..... | 33,000 00 |
| Passenger stations at La Mesa, Lakeside, Santee and Palm avenue | 9,000 00 |
| Roadway betterments | 56,000 00 |
| Total | \$121,000 00 |

Attached to the application is also a statement of proposed addition and betterment expenditures for the years 1914 and 1915. The principal items in this statement are as follows:

| | |
|--|---------------------|
| New equipment | \$58,000 00 |
| Shops, engine houses and turntables..... | 58,000 00 |
| Roadway betterments | 206,000 00 |
| Miscellaneous | 5,000 00 |
| Total | \$327,000 00 |

The roadway betterment items are principally to take care of heavier rails which the company intends to lay, both on its eastern and its southern divisions, and of rail fastenings, ties, frogs and switches and other expenditures in connection with these improvements. The applicant was unable to state what portion of its expenditures would be incurred in 1914 and what portion in 1915. The applicant's officers stated that the expenditures to be made would depend largely on the salability of its bonds and on the company's income and consequent ability to pay interest on the bonds during the ensuing two years.

While I am of the opinion that all the expenditures which applicant proposes to make during the years 1913, 1914 and 1915 are desirable to be made, both from the point of view of the applicant and of the public, many changes are likely to take place in applicant's plans between now and the years 1914 and 1915. It may be that other purposes may seem more desirable in the course of a year and a half or two years than those which now appear to the applicant to demand expenditures. While the Commission is desirous of offering every possible assistance to applicant in the development of its railroad, I think it would be a far better policy not to authorize at the present time the issue of specific bonds for the purpose of making the improvements contemplated for 1914 and 1915. When the time comes, if applicant still desires to make the improvements which it now specifies for those years, it will find the Commission ready to co-operate in every possible way. When the time comes for making definite plans for the year 1914, the applicant may file in this proceeding a supplemental application, setting forth the specific expenditures which it desires to make for that year. The same policy may be pursued with reference to the expenditures for the year 1915. The order in the present proceeding will be limited to the issue of bonds to repay applicant for expenditures which it has heretofore made and for expenditures for the remaining portion of 1913.

Attached to the application is the form of a proposed trust deed from San Diego and Southeastern Railway Company to Bank of Commerce and Trust Company of San Diego, conveying all of applicant's real and personal property as security for the proposed bond issue in the maximum authorized amount of \$600,000.00. The deed, in addition to the usual provisions, provides for a sinking fund, commencing with the year 1924. On the 2d day of January, 1924, and of each year until maturity or full payment of the bonds, at least \$30,000.00 shall be paid into said fund. The bonds provided for in the trust deed are to be known as "San Diego and Southeastern Railway Company general first lien five per cent sinking fund thirty-year gold bonds." The trust deed provides that the bonds shall be delivered by the trustee upon receipt of a certificate from the railway company to the effect that all bonds previously delivered have been used for the purposes authorized and further showing that the surplus of the net earnings of the railway company after payment of operating expenses for the six months next preceding the date of the certificate is at least equal in amount to the interest upon the bonds proposed to be certified and delivered, and also equal to twice the amount of the interest on the bonds then outstanding.

While no evidence was introduced at the hearing concerning the value of applicant's property, so as to enable the Commission to see

the relationship between the value of the property and the amount of bonds, this Commission's engineering department has prepared a valuation which, while not binding on the Commission, throws some light on this question. The engineering department has reported to the Commission that the reproduction value of the property is \$2,307,-089.38, and that the present value is \$1,935,512.14. While these figures may be altered after the Commission has held its hearing in the matter of ascertaining the value of the property of applicant, they are sufficient to show that there is a wide margin between the value of the property and the amount of the proposed bond issue. At the hearing the Commission made inquiry into the net profits of the applicant, so as to ascertain whether or not the applicant would be able to pay interest on the proposed bond issue. The following figures with reference to operations of the company between March 2, 1912, the date of its incorporation, and May 31, 1913, were presented by applicant's auditor:

| | | |
|---|--------------|--------------|
| Gross revenue ----- | | \$531,871 55 |
| Additional income ----- | | 4,749 14 |
| <hr/> | | |
| Total receipts ----- | | \$536,620 69 |
| Operating expenses ----- | \$451,653 65 | |
| Income deductions ----- | 34,790 47 | |
| Sundry charges to profit and loss ----- | 2,769 15 | |
| <hr/> | | |
| Total expenses ----- | | 489,213 27 |
| <hr/> | | |
| Net profit ----- | | \$47,407 42 |

It appears further that no depreciation has been charged off except depreciation of rolling stock, which item is included in operating expenses. The income of applicant is undoubtedly lower at the present time than it will hereafter be, for the reason that the frost of last winter has destroyed practically the entire lemon and orange crop, on which applicant places its chief reliance for freight.

An inquiry into applicant's franchise situation shows that applicant claims perpetual franchises for what is known as the "Old Coronado Belt Line," also the lines formerly owned by the National City and Otay Railway, and also the lines of the San Diego and Cuyamaca Railway Company easterly from the easterly boundary of the city of San Diego. The company also claims a franchise on the old Cuyamaca line from the water front easterly to Thirty-first street in San Diego, this franchise having been granted in the year 1888, for a fifty-year period. It appears that applicant has no franchise for that portion of the Cuyamaca line which lies between Thirty-first street in San Diego and the easterly limits of the city. While a large portion of this line runs over private right of way, it would undoubtedly be better for applicant to secure a franchise, so as to give to it the

undoubted right to operate along and across such streets as are included within this portion of its line. It is, of course, clear that the security of the bonds of a railway company is dependent in part, at least, on sufficient franchises over its route.

Applicant asks authority to sell its bonds for the minimum sum of 80 per cent of their face value. In view of the fact that these bonds are to be secured by a first mortgage and that there is a large margin between the value of the property and the amount of the bonds proposed to be issued, and of the large increase in population in the territory which applicant is alone serving, I am of the opinion that the bonds have a value considerably in excess of 80 per cent of their face. Applicant urged the present financial stringency as a reason for an order authorizing an issue at the minimum price of 80 per cent of the face value of the bonds. I do not believe that applicant ought to sacrifice its bonds at so low a figure, and particularly in view of the fact that a large portion of the expenditures which it is desired to make from the proceeds of these bonds will not be made until the years 1914 and 1915. I am convinced that the bonds are worth at least 85 per cent of par, and shall recommend an issue on this basis. If applicant finds it impossible to dispose at this figure of the bonds which it needs for its immediate additions and betterments, supplemental application setting forth the facts may be made to the Commission.

I find that the purposes for which it is desired to expend the proceeds of the bonds herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and recommend that the application be granted to the extent indicated in the order.

I submit herewith the following form of order:

ORDER.

San Diego and Southeastern Railway Company having applied to the Railroad Commission of the State of California for an order authorizing the issue by said company of bonds of the face value of six hundred thousand (\$600,000.00) dollars, said bonds to be payable thirty (30) years after the date thereof and to bear interest at the rate of five (5%) per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all the property of the company, and a public hearing having been held upon said application, and the Commission finding that the money to be secured by the issue of the bonds hereinafter authorized is necessary to and reasonably required by said company for the purposes hereinafter specified and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego and Southeastern

Railway Company of three hundred and forty-three thousand (\$343,000.00) dollars, face value, of principal of bonds of said company, to bear interest at the rate of five (5%) per cent per annum, payable semiannually, under and in pursuance of the terms of a trust deed or mortgage to be made and executed by said San Diego and Southeastern Railway Company to Bank of Commerce and Trust Company of San Diego, as trustee, substantially in the form annexed to the application in this proceeding, upon the following conditions and not otherwise, to wit:

1. San Diego and Southeastern Railway Company shall sell said bonds so as to net said company not less than eighty-five (85%) per cent of the par value of the principal thereof, besides interest accrued thereon.

2. The proceeds from the sale of said bonds shall be applied only for the following purposes:

(a) The proceeds from the sale of said bonds in an amount not to exceed the sum of one hundred seventy thousand two hundred eighty-six and $21/100$ (\$170,286.21) dollars shall be expended to pay that certain note dated July 12, 1912, in favor of J. D. Spreckels & Brothers Company, amount ten thousand (\$10,000.00) dollars; that certain note dated August 6, 1912, in favor of First National Bank of San Diego, amount twenty-five thousand (\$25,000.00) dollars; amounts due J. D. and A. B. Spreckels Securities Company for cash advances from October 9, 1912, to February 10, 1913, inclusive, total one hundred thousand nine hundred seventy-eight and $33/100$ (\$100,978.33) dollars; and to reimburse applicant for expenditures amounting to thirty-four thousand three hundred seven and $88/100$ (\$34,307.88) dollars for construction and betterments made from income during the period from March 2, 1912, to January 31, 1913.

(b) The proceeds from the sale of said bonds not to exceed the sum of one hundred twenty-one thousand (\$121,000.00) dollars shall be expended for proposed additions and betterment expenditures during the year 1913 subsequent to January 31, 1913, for the items appearing on statement headed "Proposed additions and betterment expenditures of the San Diego and Southeastern Railway Company during the year 1913 after January 31, 1913," which statement is attached to the application in this proceeding and made a part thereof.

3. San Diego and Southeastern Railway Company may hereafter file a supplemental petition stating the expenditures which it desires to make for the year 1914, when such expenditures become imminent, and thereafter a similar statement with reference to the year 1915, whereupon the Commission will in this proceeding make such order as may seem proper.

4. San Diego and Southeastern Railway Company shall, before it

issues any of the bonds hereby authorized, file with this Commission a certified copy of a trust deed in substantially the form annexed to the application.

5. San Diego and Southeastern Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with the provisions of this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. This order shall not become effective until the fee specified in section 57 of the Public Utilities Act shall have been paid.

7. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the first day of July, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of July, 1913.

Decision No. 787, grade crossing; not printed. See end of volume.

DECISION No. 788.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR A MODIFICATION OF THE ORDER MADE BY THE RAILROAD COMMISSION ON OCTOBER 3, 1912, IN APPLICATION NO. 204.

Application No. 606.

Decided July 12, 1913.

Application of Central California Gas Company petitioning Commission for modification of original order permitting applicant to expend the proceeds of \$12,300.00 face value of stock and bonds previously authorized at Visalia instead of Porterville. *Held*, application granted under certain conditions.

C. S. S. Forney, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

In its order dated October 3, 1912, this Commission has heretofore authorized Central California Gas Company to issue amounts of stocks

and bonds therein specified for various purposes in connection with the operations of the Central California Gas Company. Among other authorizations, this Commission in said order authorized Central California Gas Company to issue its bonds of the face value of \$7,000.00 and its preferred stock of the par value of \$5,300.00, the proceeds whereof—not to be less than \$10,000.00—to be used to purchase a gas holder and to erect and install the same on land to be purchased as a site therefor in the city of Porterville, and for certain accessories necessary in the operation of the holder.

Central California Gas Company now petitions for authority to issue such bonds and stock and to use the proceeds thereof for certain improvements to its gas plant in the city of Visalia, which improvements applicant considers to be more necessary at the present time than said improvements heretofore contemplated in the city of Porterville. The improvements contemplated at Visalia include the installation of a generating set having a capacity of 30,000 cubic feet per hour, a 100-horsepower boiler, a turbo blower and a turbo pump, together with the necessary piping for all of this apparatus, and the erection of a building to house this and other apparatus, the total to cost \$10,000.00. The Commission has investigated the prices to be paid for these various items, and is satisfied that they are reasonable.

The application would be granted without further comment were it not for certain facts which developed at the hearing in connection with an investigation which this Commission has been conducting with reference to the expenditure of the proceeds of other stocks and bonds which this Commission has heretofore by various orders authorized the Central California Gas Company to issue. It develops that the construction of the transmission line between Visalia and Porterville and of the distributing systems in Lindsay, Exeter and Strathmore, totaling an expenditure of \$105,500.00, was all included in a single contract which was let by Central California Gas Company to General Operating and Construction Company. The latter company is controlled by Mr. C. S. S. Forney, who is also the president of the Central California Gas Company. The contract was let on the basis of the unit prices which were specified in the exhibits which were prepared by the engineers of the Central California Gas Company and which were attached to the various applications which have been submitted to this Commission by said company. It now appears, however, that the actual cost of the work was considerably less than the figures specified in said engineers' estimates, but that the General Operating and Construction Company has nevertheless been paid the full contract price, or nearly all of it, on the work. In other words, the General Operating and Construction Company, a subsidiary construction company, has reaped an undue

profit out of the contract. It appears that certain additional work, which was not included in the contract, particularly a longer transmission main between Porterville and Visalia and a more extensive distributing system in Exeter and Lindsay, and also the entire distributing system in Strathmore, has been performed by the General Operating and Construction Company. Mr. Forney, however, the president of the General Operating and Construction Company, stated to the Commission in this proceeding that the General Operating and Construction Company will make no claim against the Central California Gas Company for any of these items.

From a report made to this Commission by its engineering department, it appears that even including the estimated cost of the extra work, the General Operating and Construction Company has made a profit out of this contract of about \$15,000.00, or about 15 per cent of the total amount.

It also appears that the General Operating and Construction Company gave no bond or other security for the performance of the work and that the Central California Gas Company has no protection whatsoever against the possible claims of laborers or material men under the mechanics' lien law. While the General Operating and Construction Company has paid, according to Mr. Forney, about 75 per cent of the bills incurred for work done in connection with the contract, the remaining bills have not been paid and the Central California Gas Company has no security for their payment.

It is evident that Mr. Forney has used his position in both of these companies to reap for the General Operating and Construction Company an undue profit out of this work at the expense of the Central California Gas Company.

This Commission will henceforth examine with the most careful scrutiny any transaction to which the General Operating and Construction Company is a party. The order in this case will provide that no moneys which may still be due from Central California Gas Company to General Operating and Construction Company shall be paid over unless the consent of this Commission shall first have been secured. The order will also be conditioned upon the furnishing by General Operating and Construction Company to Central California Gas Company of a bond in form and amount satisfactory to this Commission, protecting Central California Gas Company against any and all claims arising out of the contract with the General Operating and Construction Company. The order will further be conditioned upon the filing with this Commission of a stipulation in form satisfactory to it, executed by the General Operating and Construction Company, and expressly waiving the right to collect from Central California Gas

Company any compensation for extra work performed under or in connection with its contract.

At the hearing Mr. Forney presented certain statements purporting to show the present financial condition of the Central California Gas Company and results of its financial operations. If it became necessary to consider these statements they would be carefully scrutinized by the Commission to ascertain whether all expenses properly chargeable to operating expenses have been so charged and whether the statements are in all other respects correct.

I submit herewith the following form of order:

ORDER.

Central California Gas Company having filed with this Commission its application for authority to issue its bonds, numbered 244 to 250, inclusive, and fifty-three (53) shares of its preferred stock, for a consideration in cash of not less than ten thousand (\$10,000.00) dollars, and to use the proceeds for designated improvements to its gas plant in the city of Visalia instead of using them for improvements in the city of Porterville, as specified in this Commission's order on Application No. 204, and a public hearing having been held on said application,

It is hereby ordered that said application be and the same is hereby granted, subject to the following express conditions, and not otherwise, to wit:

1. The proceeds to be derived from the sale of said bonds and stock, which proceeds shall be not less than the sum of ten thousand (\$10,000.00) dollars in cash, shall be applied only for the improvements at Visalia, specified in paragraph 5 of the application, consisting of a new generating set with the appurtenances specified. Said bonds and stock are to be used for this purpose only, and not for the construction and improvement heretofore contemplated in the city of Porterville.

2. Said bonds and stock shall not be issued until Central California Gas Company shall have secured and filed with this Commission a stipulation executed by the General Operating and Construction Company under the authority of a resolution of its board of directors to the effect that General Operating and Constructing Company waives all claims which it might have against Central California Gas Company for extras under its contract with said company, referred to in this opinion.

3. Said bonds and stock shall not be issued until General Operating and Construction Company shall execute and file with this Commission a bond with sufficient sureties, in form and amount satisfactory to this Commission, to secure Central California Gas Company against the demand of any and all claims arising in connection with the work which has been performed for it by said General Operating and Construction Company.

4. No further payments shall be made by Central California Gas Company to or for General Operating and Construction Company under or in connection with said contract, or otherwise, unless an order of this Commission authorizing such payments shall first have been secured.

5. Central California Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month applicant shall make verified reports to this Commission stating the sale or sales of said stock or bonds during the previous month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of July, 1913.

DECISION No. 789.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE BONDS IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS, TO BE SECURED BY TRUST INDENTURE TO LOS ANGELES TRUST AND SAVINGS BANK, AND FOR AUTHORITY TO HYPOTHECATE ANY OR ALL OF SAID BONDS AS COLLATERAL SECURITY FOR LOANS.

Application No. 627.

Decided July 12, 1913.

Permission granted Santa Barbara Gas and Electric Company to issue \$100,000.00 face value of six per cent bonds, proceeds to be used in betterments and improvements to plant.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Santa Barbara Gas and Electric Company for an order authorizing the issue and sale or hypothecation of

\$100,000.00 face value of bonds bearing interest at the rate of six per cent per annum, due July 1, 1941.

Applicant is engaged in the business of generating and distributing electric energy and gas for lighting, heating and power purposes within the city of Santa Barbara and territory adjacent thereto.

The condition of the capitalization is as follows:

| STOCK. | | |
|------------------|--------------------------|----------------------|
| Preferred ----- | Authorized. \$500,000 00 | Issued. \$400,000 00 |
| Common ----- | 500,000 00 | 400,900 00 |
| BONDS. | | |
| Authorized ----- | \$1,000,000 00 | |
| Issued ----- | 664,000 00 | |

The trust deed under which proposed issue of bonds must be made, provides that there may be issued in face value of bonds 75 per cent of the actual and reasonable cash cost to the company of permanent extensions and additions to its plant. Under this provision there must be added to the plant of applicant \$133,000.00 of property before \$100,000.00 of bonds can be issued.

Applicant presents a physical valuation of its gas and electric properties as of May 31, 1913, made by J. G. White Company and Bion J. Arnold Company, of \$914,071.00. While it can not at this time be determined that this is the true present value of applicant's plant, nevertheless, with the addition to plant value to be made from the proceeds of the bonds herein asked to be authorized, it is evident that there will be a margin of plant value over outstanding bonded indebtedness.

The additions to be made by applicant with the proceeds from the sale of these bonds will very much increase its earning capacity.

Applicant shows a net operating revenue for the fiscal year ending June 30, 1912, of \$65,893.16, hence, even if no additional earnings are made, the increased fixed charge resulting from the issuance of the bonds herein asked to be authorized, can easily be paid out of earnings.

It is proposed to sell these bonds at not less than 95 per cent of their face value or to pledge them for loans on the basis of not less than 80 per cent of money received to face of bonds, and the proceeds are to be used for the purpose of acquiring property and for the construction, completion and extension of its facilities and for the discharge or refunding of its obligations incurred for the aforesaid purposes.

The sum of \$863.90 for which applicant asks reimbursement out of the proceeds of these bonds, represents an expenditure for additions made to plant out of income.

It is evident that applicant has a prosperous and growing business and that the additions to plant and facilities to be made from the proceeds herein asked to be authorized are very much needed to provide

service for consumers in the locality which it serves, and that such additions and betterments will add very considerably to the income of applicant.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Santa Barbara Gas and Electric Company for an order authorizing the issue by said company of one hundred thousand dollars (\$100,000.00) face value of bonds bearing interest at the rate of six per cent (6%) per annum, said bonds to be payable July 1, 1941, and for permission to sell said bonds at not less than ninety-five per cent (95%) of the face value thereof or to pledge said bonds as security for loans on a basis of not less than eighty per cent (80%) of money received to the face value of bonds pledged; and a hearing having been duly held, and it appearing to the Commission that the money to be secured by the issue of said bonds is necessary and reasonably required by said company for the construction, completion, extension and improvement of its facilities and for the discharge or refunding of its obligations incurred for such purposes, and that the purposes for which the sale of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or income;

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Santa Barbara Gas and Electric Company of \$100,000.00 face value of bonds bearing interest at the rate of six per cent (6%) per annum, due July 1, 1941.

Said bonds shall be issued under and in pursuance of the terms of a trust indenture dated July 1, 1911, made by Santa Barbara Gas and Electric Company to Los Angeles Trust and Savings Bank, copy of which said trust indenture is on file with this Commission, said bonds to be issued on the following terms and conditions and not otherwise:

(1) San Bernardino Gas and Electric Company shall sell the bonds hereby authorized so as to net said company not less than ninety-five per cent (95%) of the face value thereof plus accrued interest at the date of their delivery to the purchaser; or

(2) Said company may hypothecate or pledge said bonds as security for the payment of loans, provided that such loans shall be made for a period of not to exceed one year, and there shall be paid for said loans not to exceed seven per cent (7%) per annum, and said bonds shall be pledged or hypothecated on a basis of not less than eighty per cent (80%) of money received on such loan to face of bonds pledged therefor.

(3) The proceeds from the sale or pledge of said bonds shall be used for the following purposes only:

For reimbursement of treasury for moneys paid out of income for net additions to plant, property and equipment for the period June 1, 1912, to May 31, 1913-----

\$863 90

Estimated expenditures at gas plant—

Installation of new gas generator----- \$3,700 00
Less original value of old gas generator to be sup-
planted* ----- 1,700 00

\$2,000 00

Installation of new purifying apparatus for new generator_ 1,800 00

Installation one 600-gallons-per-minute pump motor----- 2,600 00

Miscellaneous additions to gas plant as need may develop-- 1,500 00

\$7,900 00

Estimated expenditures at steam plant—

1 1000-kilowatt turbo generator with direct-connected
exciter, including freight, cartage and erection----- \$15,335 00

3 330-horsepower Stirling boilers, erected complete----- 21,800 00

1 4,000 square feet surface condenser with rotative dry
vacuum pump ----- 7,100 00

2 centrifugal hot well pumps----- 800 00

2 centrifugal feed pumps ----- 3,000 00

1 1800-horsepower feed water heater----- 1,200 00

Fuel oil system, consisting of heater and two pumps--- 350 00

Instruments ----- 1,900 00

Piping ----- 6,000 00

2 steel stacks ----- 1,800 00

Switchboard and wiring for generator----- 1,500 00

1 25-ton electric crane, erected----- 4,130 00

Crane runway ----- 700 00

Basement and foundations----- 2,950 00

Reconstruction of 16-inch discharge line----- 500 00

Labor erecting machinery and dismantling boilers----- 1,650 00

Engineering and contingencies----- 10,000 00

Total ----- \$80,715 00

New construction arising out of development of business and additions
of new consumers, including extensions of distributing system, new
services, meters, transformers, regulators, etc., both gas and electric

44,021 00

\$133,500 00

(4) Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the sale or disposition of such bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

*Old gas generator to be remodeled into a scrubber.

(5) This order shall not become effective until the fee required by section 57 of the Public Utilities Act has been paid.

(6) The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the first day of August, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of July, 1913.

DECISION No. 790.

IN THE MATTER OF THE APPLICATION OF THE SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AUTHORITY TO ISSUE BONDS AND NOTES.

Application No. 629.

Decided July 12, 1913.

Applicant asks for authorization to issue \$2,500,000.00, face value, of bonds, proceeds to be used in betterments and extensions to system.

Held, Applicant permitted to issue \$1,776,000.00, face value, of bonds; \$1,626,000.00 at the present time and the balance under supplemental order after complying with certain provisions of this order.

W. A. Sutherland, for Applicant.

REPORT OF THE COMMISSION.

ESHELMAN, *Commissioner*.

This is an application by San Joaquin Light and Power Corporation for authority to issue \$2,500,000.00 in bonds, to sell the same, or to pledge them as collateral security for an issue of notes.

The San Joaquin Light and Power Corporation is engaged in the business of generating and selling electricity and gas over a large section of the San Joaquin Valley and in operating a street railway in Bakersfield. The affairs of this corporation have been reviewed in connection with Application No. 278 and a detailed presentation thereof is not necessary for the purposes of the present application.

It is proposed by the applicant to issue \$2,500,000.00 of its Series B first and refunding mortgage 5 per cent 40-year bonds. The applicant

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petitions further for authority to pledge said bonds for an issue of \$1,875,000.00 of two-year 6 per cent collateral trust notes in accordance with a trust agreement dated August 1, 1913, between the applicant herein and the Savings Union Bank and Trust Company of San Francisco. This collateral trust agreement provides that for every \$3,000.00 in notes there shall be pledged as collateral security \$4,000.00 in bonds. The applicant asks also for authority to issue these two-year collateral trust notes and petitions further for authority to pledge such bonds as may not be deposited under the collateral trust agreement as security for individual loans which it may negotiate.

It is proposed to use the proceeds from the sale of bonds or from the issue of notes for additions and betterments to applicant's plant and facilities. The applicant has presented as "Exhibit B" a list of these proposed additions and betterments and also a summary as follows:

| | |
|---|----------------|
| Transmission and distributing systems----- | \$425,521 66 |
| Powerhouses and substations----- | 1,293,955 71 |
| Miscellaneous ----- | 86,421 38 |
| Automobiles ----- | 14,004 00 |
| Furniture ----- | 600 00 |
| Bakersfield Gas and Electric Company----- | 19,276 81 |
| Excess of expenditures made over estimated expenditures used as a basis for issuing bonds of the San Joaquin Light and Power Company's \$3,000,000.00 issue and the San Joaquin Light and Power Corporation's Series "A" and "B" issues. (These expenditures were for betterments prior to the advent of the Railroad Commission)----- | 50,415 19 |
| | <hr/> |
| | \$1,890,194 75 |
| Future betterments and extensions to plants and system required to take care of ordinary growth of business---- | 1,050,981 75 |
| | <hr/> |
| Final total ----- | \$2,941,176 50 |

The powerhouses, substations and transmission lines, etc., are required by the applicant in the upbuilding of its business. This development is all rendered necessary by the rapid expansion of business. These improvements have been considered and passed upon in detail by this Commission in previous applications, and the present request is for bonds to continue upon this work heretofore approved.

The applicant has presented appraisals of its property in detail sufficient to establish a reasonable margin above the face value of its outstanding indebtedness.

Applicant submits a statement of bonds outstanding to the amount of \$7,358,000.00, and floating indebtedness to the amount of \$1,563,207.91, making a total indebtedness of \$8,921,207.91.

For the year ending May 31, 1913, San Joaquin Light and Power Corporation submits a statement of earnings as follows:

| | |
|---|----------------|
| Gross earnings | \$1,539,504 67 |
| Operation and maintenance..... | 313,987 20 |
| Net plant earnings..... | \$1,225,517 47 |
| General administration and other expense..... | 223,402 55 |
| Net earnings from operation..... | \$1,002,114 92 |
| Sundry earnings | 26,659 85 |
| Net income | \$1,028,774 77 |
| Taxes and sundries..... | 59,728 01 |
| Balance for fixed charges..... | \$969,046 76 |
| Interest, etc. | 403,591 01 |
| Net profit | \$565,455 75 |
| Sinking fund | 60,040 73 |
| Surplus | \$505,415 02 |

It is clear, therefore, that the earnings of the applicant are far more than ample to take care of the additional interest charge to be created by a further issue of bonds.

A check of the proposed additions and betterments for which applicant desires to expend the proceeds from the sale of its bonds or the issue of its notes shows that they are not in whole or in part chargeable to operating expenses. The Commission, however, should be supplied with further detail on the item "Powerhouses and Substations," and on the item of \$50,415.19 for excess of expenditures over previous estimates.

I am not prepared at this time to approve an issue of bonds for future betterments and extensions in the lump sum of \$1,050,981.75. The applicant herein, as in the case of every large electric or gas corporation, is required to make small extensions from time to time in the development of its business which can not be anticipated and specified in advance. It has been the practice of the Commission to make proper allowance for these service extensions and connections. I believe at this time the Commission should issue its authorization for such extensions in a sum not to exceed \$250,000.00. The applicant may later apply for the additional bonds needed for these extensions when it can present to the Commission some more definite statement as to the nature, cost and general location of these proposed extensions.

I believe also that the Commission's approval of the item of \$50,415.19 for excess expenditures over estimates should be postponed until such

time as the applicant shall submit the additional details necessary to a satisfactory check of this item.

I find among the list of proposed betterments such items as automobiles, which depreciate rapidly. I would be unwilling to authorize the issue of a long term bond for such purposes had not the applicant set up a proper depreciation against these items. The finding herein as to the future betterments and extensions in excess of the \$250,000.00 and as to the item of \$50,415.19 of excess expenditures over estimates, shall be entirely without prejudice as to the right of the applicant to reapply as to these items.

The mortgage and deed of trust under which the bonds herein applied for will be issued limits the amount of bonds that may be so issued to 85 per cent of the additions and betterments. This mortgage and deed of trust provides further that bonds may be issued only when the net earnings for the year ending two months previous have been twice the amount necessary to pay interest on all bonds outstanding, together with the interest on the bonds which it is proposed to issue.

Applicant presents a statement showing that under the terms of its mortgage and deed of trust it may now issue bonds to the amount of \$1,626,000.00.

In accordance with the findings herein I recommend that applicant be given authority to issue bonds in such proportion as is fixed under its mortgage and deed of trust for additions and betterments costing \$2,089,779.56. Under its mortgage and deed of trust the applicant may issue bonds to the amount of 85 per cent of this sum, or \$1,776,000.00.

I recommend, therefore, that San Joaquin Light and Power Corporation be given authority to issue its bonds to the amount of \$1,776,000.00, and that it be limited to the amount it may issue at this time to \$1,626,000.00, and that it be given authority to issue the balance when it shall have presented evidence to this Commission that its net earnings have attained the relationship to its bond interest prescribed in its mortgage and deed of trust.

In view of the unusual financial conditions prevailing at this time, San Joaquin Light and Power Corporation asks that it be given authority to sell its bonds at a price not less than 80 per cent of their face value, and that it be given authority to issue its two-year 6 per cent notes at a price not less than 94. At the hearing, however, applicant stated that it could probably sell its notes at a figure considerably better than 94. The interest rate on a 6 per cent two-year note at 94 or 95 is unusually high. We shall fix a minimum of 95, but believe this corporation should be able to sell its notes at a better figure.

I recommend that the application be granted as modified in this opinion, and submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to this Commission for authority to issue \$2,500,000.00 of its Series B, first and refunding mortgage forty-year 5 per cent bonds under its mortgage and deed of trust to The Trust Company of America; to pledge said bonds as collateral security for an issue of \$1,875,000.00 of two-year 6 per cent collateral trust notes under an agreement with Savings Union Bank and Trust Company of San Francisco, dated August 1, 1913; to issue said two-year 6 per cent collateral trust notes; and to pledge such bonds as may not be deposited under said agreement with Savings Union Bank and Trust Company of San Francisco, as collateral security for such loans as it may negotiate; and a hearing having been held and it appearing that the purposes for which San Joaquin Light and Power Corporation desires to issue said bonds and said notes are not in whole or in part chargeable to operating expenses or to income;

It is hereby ordered that San Joaquin Light and Power Corporation be given authority, and it is hereby given authority, to issue \$1,776,000.00 of its Series B, first and refunding mortgage forty-year 5 per cent bonds, under its mortgage and deed of trust to The Trust Company of America, a copy of which is on file with this Commission in connection with Application No. 278, to which reference is hereby made, said bonds to be due and payable August 1, 1950;

It is hereby ordered that San Joaquin Light and Power Corporation be given authority, and it is hereby given authority, to issue its two-year 6 per cent collateral trust notes, under its agreement with Savings Union Bank and Trust Company of San Francisco, dated August 1, 1913, a copy of which is on file with this Commission in connection with the application herein, and marked "Exhibit C," to which reference is hereby made, said notes to be due and payable August 1, 1915.

Authority to issue said bonds and said notes is given upon the following conditions and not otherwise:

(1) Applicant may issue at this time bonds of the face value of \$1,626,000.00, and may issue the balance of \$1,776,000.00 of bonds after it shall have received a supplemental order from this Commission stating that its net earnings for the year ending two months previous shall have been twice the interest on its outstanding bonds plus twice the interest on the bonds proposed to be issued.

(2) Said bonds, when sold, shall be sold to net applicant not less than 80 per cent of their face value plus accrued interest thereon.

(3) Said bonds may be pledged as security for an issue of two-year

6 per cent collateral trust notes, in accordance with an agreement between San Joaquin Light and Power Corporation and Savings Union Bank and Trust Company of San Francisco, to which reference has heretofore been made in this opinion and order.

(4) Such portion of said issue of \$1,776,000.00 of bonds herein authorized to be issued as may not be pledged as security for said two-year 6 per cent collateral trust notes, may be pledged by San Joaquin Light and Power Corporation as security for such note or notes as it may issue.

(5) San Joaquin Light and Power Corporation shall file with this Commission within thirty days a statement showing the amount of bonds deposited under its trust agreement with Savings Union Bank and Trust Company of San Francisco.

(6) San Joaquin Light and Power Corporation shall file with this Commission a list of such notes as it may issue, other than its two-year 6 per cent collateral trust notes, under its agreement with Savings Union Bank and Trust Company of San Francisco, upon the collateral security of any part of said \$1,776,000.00 of bonds herein authorized. Said notes shall bear interest not to exceed 7 per cent per annum, and shall be in amount not less than 75 per cent of the face value of the bonds pledged as collateral security.

(7) The proceeds from the sale of said bonds and from all notes herein authorized to be issued shall be applied upon the following:

| | |
|--|-----------------------|
| Transmission and distribution systems, as set forth in applicant's Exhibit B----- | \$425,521 66 |
| Powerhouses and substations, as set forth in applicant's Exhibit B ----- | 1,293,955 71 |
| Miscellaneous expenditures, as set forth in applicant's Exhibit B ----- | 86,421 38 |
| Automobiles, as set forth in applicant's Exhibit B----- | 14,004 00 |
| Furniture, as set forth in applicant's Exhibit B----- | 600 00 |
| Additions and betterments, as set forth in applicant's Exhibit B ----- | 19,276 81 |
| Future betterments and extensions required to take care of ordinary business development.----- | 250,000 00 |
| Total ----- | \$2,089,779 56 |

(8) Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale or pledge of the bonds or notes hereby authorized to be issued, and on or before the twenty-fifth day of each month, it shall make verified reports to the Commission stating the sale or sales or pledge of said bonds or notes during the preceding month, the terms and conditions of sale or pledge, moneys or properties realized therefrom, and the use and application of such moneys, all in accordance with this Commis-

sion's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(9) This order shall not become effective until the fee specified in Section 57 of the Public Utilities Act shall have been paid.

(10) The authority hereby given to issue bonds and notes shall apply to such bonds and to such notes as shall have been issued on or before July 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of July, 1913.

DECISION No. 791.

CALIFORNIA PINE BOX AND LUMBER COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 367.

Decided July 19, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled proceeding having on July 9, 1913, made written request to this Commission that the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 19th day of July, 1913

DECISION No. 792.

IN THE MATTER OF THE APPLICATION OF MOUNT JACKSON
WATER AND POWER COMPANY FOR AUTHORITY TO
ISSUE BONDS.

Application No. 621.

Decided July 19, 1913.

Application of the Mount Jackson Water and Power Company to issue bonds of the face value of \$11,000.00 denied.

A. F. Lemberger, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Mount Jackson Water and Power Company is engaged in the business of distributing and selling water at Rionido, Sonoma County. Rionido is a summer resort on the Russian River. The applicant asks the Commission for authority to issue \$11,000.00 of bonds and to use the proceeds for the payment of its existing indebtedness.

In connection with Application No. 566 this Commission had occasion to inquire into the affairs of the applicant, and thereafter issued its order authorizing the Mount Jackson Water and Power Company to raise its rates.

A separate hearing was held in Rionido on Application No. 621, in which authority is asked to issue bonds.

As a result of these two hearings and the investigation attendant thereon, I find that the applicant herein is heavily burdened with debts and apparently without ability to raise additional sums in any substantial amount without increasing its burden of indebtedness. The property has been operated at a loss up to the present time.

The property of Mount Jackson Water and Power Company consists of wells, a distributing system and certain lands upon which the applicant itself places a value of \$9,148.82. The applicant claims in addition a value of \$2,000.00 for its water rights and \$1,000.00 for development expense or "going concern," making a total of \$12,148.82.

Mount Jackson Water and Power Company presents to the Commission a statement of its indebtedness as follows:

| | |
|----------------------------|-------------------|
| Notes payable | \$7,613 68 |
| Accrued indebtedness | 264 44 |
| Taxes, etc., due..... | 100 00 |
| Total | <u>\$7,978 12</u> |

In addition applicant stated that it proposed to make improvements to cost \$1,650.00, which would make its total indebtedness \$9,628.12.

By selling \$11,000.00 7 per cent five-year bonds at 85 the applicant proposes to raise \$9,350.00 and to apply this upon its indebtedness and the proposed improvements. There are certain features of this case which differentiate it from any other which has come before this Commission. This company serves water to a community which has but twelve permanent residents. For the remainder of its business it must depend upon the transient summer visitors to Rionido. During the months of June, July and August, several people visit this resort and remain from a few days to three months. During the rest of the year, as heretofore stated, there is but a scant permanent population and a few occasional visitors. Inherently I do not consider this a property upon which bonds should be issued. I believe the indebtedness of such a corporation should be financed by notes to individuals thoroughly acquainted with the nature of the business and not by securities to be sold to the general public. Aside from this basic condition which militates against the issue of bonds, I find that the applicant herein has been losing money through its operations, that it has been unable to pay its interest, and that it is unable to raise money in any considerable amount from its stock.

This company has issued 200 shares of stock, of which 194 shares are held by Mr. T. C. Mellersh. Mr. Mellersh acquired this property in October, 1911, with a note indebtedness of \$5,000.00. Since that time the note indebtedness has been increased by \$2,613.68, a part of which is attributable to new construction and a part representing the loss in operation. The indebtedness represented by notes consists of three notes as follows:

| | |
|---|------------|
| Note to J. P. Overton, of Santa Rosa----- | \$7,000 00 |
| Note to Fairbanks-Morse & Company----- | 300 00 |
| Note to T. C. Mellersh----- | 313 68 |

The note to Mr. Mellersh was given for interest advanced by him and may well be considered an assessment upon his stock.

While I would be unwilling to recognize a value of \$2,000.00 for water rights and \$1,000.00 for development expenses or "going concern," as submitted by the applicant, and while there is before the Commission a valuation of its engineering department nearly \$4,000.00 below that submitted by the company, I do not consider it necessary to go into these matters at the present time.

It is clear that there is little margin between the indebtedness and the tangible assets of this corporation.

While the new rates fixed by the Commission in Application No. 566 are calculated to yield to the applicant a fair return upon its property,

nearly all such return will necessarily be used in the payment of interest on outstanding obligations and will not serve, therefore, to reduce the indebtedness. As previously stated, I do not believe that bonds, to be sold to the public or to be made available for public purchase, should be issued against an enterprise of this sort which must depend for its existence upon transitory summer trade.

For these reasons I recommend that the application be denied. At the same time it must be recognized that as these notes are now due and payable, some provision must be made for their extension. Some provision should also be made to finance the proposed improvements to this system. I recommend that the Commission entertain an application from Mount Jackson Water and Power Company to renew its existing notes to J. P. Overton in the sum of \$7,000.00, and to Fairbanks-Morse & Company in the sum of \$300.00 and to finance the proposed improvements to its system.

I submit the following order:

ORDER.

Mount Jackson Water and Power Company having applied to this Commission for authority to issue \$11,000 of five-year 7 per cent first mortgage bonds, and a hearing having been held, and it appearing that the public interest requires that this application be denied,

It is hereby ordered that said application be and same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION No. 793.

CITY LUMBER COMPANY, ELDER BUILDING MATERIAL COMPANY, HIGMAN LUMBER COMPANY, PACIFIC LIME COMPANY,

vs.

SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 392.

CALIFORNIA HARDWOOD LUMBER COMPANY, ELDER BUILDING MATERIAL COMPANY, HIGMAN LUMBER COMPANY, PACIFIC LIME COMPANY,

vs.

SOUTHERN PACIFIC COMPANY AND ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 394.

Decided July 19, 1913.

Complaint of various lumber companies alleging rates on lumber, between East San Pedro and East Wilmington to points on line of Santa Fe Railway Company west of Nadeau Park, are unreasonable.

Held. That Salt Lake Railroad Company and Santa Fe Railway Company publish a joint rate between these points of \$1.00 per ton on lumber in carload lots. Complainants being unable to prove that they suffered damages under rate of \$1.20 per ton, no reparation awarded.

Held. Complaint in Case No. 394 dismissed.

A. E. Stewart, for Complainants.

A. S. Halsted, for San Pedro, Los Angeles and Salt Lake Railroad Company.

E. W. Camp and *A. M. Reinhardt*, for Atchison, Topeka and Santa Fe Railway Company.

G. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

At the hearing of the above entitled cases, the issues being practically identical, complainants and defendants agreed that the cases should be consolidated and heard at one time, and that the testimony, as far as possible, would be applicable to both cases.

In case No. 392 the complainants ask that the present joint **rate** of six cents per one hundred pounds on lumber and forest products, in carload lots, be reduced to four cents per hundred pounds from **East San Pedro** and **East Wilmington** to points on the **Atchison, Topeka and Santa Fe** Railway west of **Nadeau Park**. The route from **East San Pedro** to points on the **Santa Fe** west of **Nadeau Park** is via the **Santa Fe**, **Los Angeles** and **Salt Lake Railroad** to **Hobart**, thence via the **Santa Fe** to destination.

In Case No. 394 the complainants ask that the present joint **rate** of six cents per hundred pounds on lumber and forest products, **carloads** from **San Pedro** proper to points on the **Santa Fe** west of **Nadeau Park** be reduced to four cents per hundred pounds. The route from **San Pedro** is via the **Southern Pacific Company** from **San Pedro** to **Los Angeles**, thence via the **Santa Fe** to destination.

Considering, first, Case No. 392: The plants of the complainants are located along the **Redondo** branch of the **Santa Fe** between **Nadeau Park** and **Inglewood**. The Commission in its decision in Case No. 115, known as the **San Pedro Rate Case**, established a rate of 80 cents per ton on lumber and forest products between **San Pedro** and **Los Angeles** via the **Southern Pacific Company**. This rate was met by the **San Pedro, Los Angeles and Salt Lake Railroad** from **East San Pedro** to **Los Angeles**, by the **Pacific Electric Railway** from **San Pedro** to **Los Angeles**, and by the **Atchison, Topeka and Santa Fe** from **Redondo** to **Los Angeles**.

The yards of the complainant being between **Redondo** and **Los Angeles**, the rates of the **Atchison, Topeka and Santa Fe** to the plants of the complainants were automatically reduced to 80 cents per ton. The complainants urged that because of the establishment by the Commission of the rate of 80 cents per ton between **San Pedro** and **Los Angeles** and subsequent joint publications by the various defendants to these actions, the lumber yards situated exclusively on the **Santa Fe** west of **Nadeau Park** are discriminated against to the extent of 40 cents per ton. The complainants apparently overlooked the fact that on lumber destined to **Los Angeles** proper, the carriers, in addition to receiving a rate of 80 cents per ton, also received a switching charge of \$2.50 per car, or approximately ten cents per ton, so that the discrimination, if any exists, amounts to but 30 cents per ton, inasmuch as no switching charges are paid by the complainants over and above the regular main line rate.

The defendants, the **San Pedro, Los Angeles and Salt Lake Railroad Company** and the **Atchison, Topeka and Santa Fe Railway Company**, maintain a joint rate of 80 cents per ton between **East San Pedro**, **East Wilmington** and **Los Angeles** via **Hobart**. This rate, the defendants urge, was a forced and compelled rate and established in order to meet

via this joint route the direct line rate of the Southern Pacific Company from San Pedro to Los Angeles. Undoubtedly this rate was published to meet the rate via the Southern Pacific Company from San Pedro to Los Angeles, for under the switching arrangements at that point the Southern Pacific Company could have hauled the lumber from San Pedro to Los Angeles and there delivered it to the Santa Fe, which company charged \$2.50 per car for making the delivery to the industry. The lumber could likewise be hauled from East San Pedro via the Salt Lake road to Los Angeles, and there delivered to the Santa Fe for switching, as there is a universal switching charge of \$2.50 per car to industries reached by any of the lines, regardless of which line receives the main line haul to Los Angeles. It seems obvious that the joint rate via Hobart between San Pedro, Los Angeles and Salt Lake Railroad and Atchison, Topeka and Santa Fe Railway was established so that the Santa Fe might receive some proportion of the main line revenue instead of simply a switching charge. If either the Southern Pacific Company or Salt Lake road to haul the cars to Los Angeles the maintenance of the joint rate via Hobart was of no advantage to receivers of lumber located on the Santa Fe at Los Angeles, for the reason that they pay exactly the same charges as would have accrued had the lumber moved via the Salt Lake Road to Los Angeles and there been delivered to the Santa Fe.

Therefore, I am inclined to believe that while indirectly and remotely the joint rate of 80 cents per ton was a forced and compelled rate, it was only so to the extent of keeping the Hobart gateway open and not of any necessity so far as consignees were concerned. When cars are delivered by the Salt Lake road at Hobart the Santa Fe haul the same to Los Angeles either by road or switch engine, from which point the same are distributed to industries to which they are destined. Under this arrangement the Santa Fe receives a certain division of the through rate of 80 cents per ton and in addition thereto a switching charge of \$2.50 per car. For this division and switching charge the Santa Fe will switch cars of lumber from Los Angeles to the end of their switching limits on the Redondo line near Nadeau Park, a distance of approximately five miles. If cars are destined to industries of the complainants west of the switching limits of the Santa Fe at Nadeau Park the Santa Fe receives only its division of the through rate of \$1.20 per ton, which through rate is claimed to be excessive.

While the Santa Fe in case of routing via Hobart receives its division of the through rate and in addition thereto a switching charge when destined to points east of Nadeau Park, it will be readily seen that if the shipment moved via Los Angeles all the Santa Fe would receive for switching to points east of Nadeau Park would be \$2.50 per car. It must be apparent that if the Santa Fe is willing to switch lumber

from Los Angeles to Nadeau Park for \$2.50 per car, thus making a through rate from East San Pedro to Nadeau Park of 80 cents per ton plus \$2.50 per car, that the joint rate of \$1.20 per ton via Hobart is excessive and unreasonable to the industries of the complainants located from two to three and one half miles west of Nadeau Park.

However, I am unable to agree with complainants' contention that they are entitled to a joint rate of 80 cents per ton, which, according to their contention, would put them on a parity with the lumber yards of Los Angeles proper. As we have before stated, the rate to Los Angeles dealers is 80 cents per ton plus \$2.50 per car for switching, making the aggregate rate 90 cents per ton. There is some additional service to points west of Nadeau Park, and while the Salt Lake road performs somewhat less service when deliveries are made at Hobart, I do not believe the difference is enough to warrant the establishment of a rate of 80 cents per ton.

I find as a fact from the evidence in this case that a reasonable joint rate for the transportation of lumber and forest products, in carload lots, from East San Pedro and East Wilmington to points on lines of the Atchison, Topeka and Santa Fe Railway west of Nadeau Park to and including the lumber yard of the Elder Building Material Company to be \$1.00 per ton of 2,000 pounds.

Considering now Case No. 394: In this case the complainants ask for a joint rate via the Southern Pacific Company in connection with the Atchison, Topeka and Santa Fe Railway on shipments of lumber and forest products from San Pedro to the lumber yards of the complainants via Nadeau Park.

It was brought out at the hearing that the publication of joint rates via Nadeau Park was the result of a mistake due to the fact that after the traffic departments of the Southern Pacific Company and Santa Fe had agreed on an interchange of traffic at Nadeau Park the operating departments were unable to make physical connections because of excessive cost of right of way, the business which would be interchanged at that point not being deemed of sufficient volume to warrant the expenditure. The present joint rate, therefore, between the Southern Pacific Company and the Santa Fe on lumber from San Pedro to the yards of complainants is based on an interchange at Los Angeles, and it requires on the part of the Southern Pacific Company the identical service which would be performed by that company in event delivery was made at Los Angeles proper.

The situation concerning the joint movement via the Southern Pacific Company and the Santa Fe differs to such an extent from the joint movement via the Salt Lake road and Santa Fe through Hobart, particularly in view of the fact that the Southern Pacific Company performs identically the same service on joint business, in connection

with the Santa Fe, as it does on local business destined Los Angeles, and receives for the joint business 80 cents per ton as against 90 cents when it delivers the lumber to an industry on its line, that I can not hold that the same rate, viz, \$1.00 per ton, which I find to be reasonable for joint movements between the Salt Lake Road and Santa Fe, would also be reasonable via the Southern Pacific and Santa Fe.

For reasons expressed above I believe the complaint in Case No. 394 should be dismissed.

Complainants in both of these cases demand reparation because of the collection of the alleged excessive and unreasonable rate of \$1.20 per ton. While I find that a reasonable rate for the joint movement via the San Pedro, Los Angeles and Salt Lake Railroad and the Atchison, Topeka and Santa Fe Railway via Hobart on lumber and forest products, in carload lots, is \$1.00 per ton, the complainants have not proven that they suffered damages by reason of the collection of the rate of \$1.20 per ton. It must be proven that complainants actually suffered damages by reason of the collection of excessive charges, otherwise no reparation will be awarded. (*Darnell-Taenzler Lumber Company et al. vs. Southern Pacific Company et al.*, 190 Fed. 659; *Deming Lumber Company vs. Southern Pacific Company et al.*, 24 I. C. C. 598.)

I recommend the following order:

ORDER.

City Lumber Company, Elder Building Material Company, Higman Lumber Company, and Pacific Lime Company, having complained in Case No. 392 that the joint rates of the San Pedro, Los Angeles and Salt Lake Railroad Company and the Atchison, Topeka and Santa Fe Railway Company (Coast Lines) for the transportation of lumber and forest products from East San Pedro and East Wilmington via Hobart to points west of Nadeau Park to and including the yard of the Elder Building Material Company, are excessive, unreasonable and discriminatory, and a regular hearing having been held, and basing its order on the findings of fact contained in the opinion preceding this order,

It is hereby ordered that the San Pedro, Los Angeles and Salt Lake Railroad Company and the Atchison, Topeka and Santa Fe Railway Company publish and file with this Commission, in the manner prescribed by law, on or before twenty (20) days from the effective date of this order, a joint rate for the transportation of lumber and forest products, in carload lots, from East San Pedro and East Wilmington to points on the Atchison, Topeka and Santa Fe Railway (Coast Lines) west of Nadeau Park to and including the yard of the Elder Building Material Company, of \$1.00 per ton.

The California Hardwood Lumber Company, Elder Building Material Company, Higman Lumber Company, and Pacific Lime Company

having complained of the joint rate of the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company between San Pedro and points on the Atchison, Topeka and Santa Fe Railway west of Nadeau Park to and including the yard of the Elder Building Material Company, and a regular hearing having been held and basing its order on findings set out in the preceding opinion,

It is hereby ordered that the complaint in Case No. 394 be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION No. 794.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY TO SELL AND UNITED WATER AND POWER COMPANY OF CALIFORNIA TO PURCHASE CERTAIN WATER RIGHTS AND PROPERTY INTERESTS, AND OF UNITED WATER AND POWER COMPANY OF CALIFORNIA TO SELL AND PACIFIC GAS AND ELECTRIC COMPANY TO PURCHASE CERTAIN WATER RIGHTS, PROPERTY INTERESTS, ETC., ALL SUBJECT TO CERTAIN TERMS AND CONDITIONS.

Application No. 586.

Decided July 19, 1913.

Application of the Pacific Gas and Electric Company and the United Water and Power Company to buy and sell certain property in Nevada and Placer Counties granted.

W. B. Bosley and C. P. Cullen, for Pacific Gas and Electric Company.
James D. Stewart, for United Water and Power Company of California.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order authorizing the applicants to buy and sell certain water rights, ditches, canals and appurtenances in Nevada and Placer counties in this State. The United Water and Power Company proposes to sell to the Pacific Gas and Electric Company two certain ditches, one of which is known as the Miner's Canal

and the other as the Miner's Ditch extension, together with the right to the water diverted by said ditches. The Miner's Canal extends from a point in section 4, township 16 north, range 11 east, M. D. B. and M., to a point near Gold Run, section 4, township 15 north, range 10 east, M. D. B. and M., a distance of about 10 miles. This canal was constructed in the fifties and has been used to convey water for mining purposes from the Bear River to points in and about Gold Run. The Miner's Ditch extension canal extends from a point in section 24, township 17 north, range 12 east, M. D. B. and M., a distance of some $4\frac{1}{2}$ miles, to a point in section 22, township 17 north, range 12 east, M. D. B. and M. The ditch diverts a portion of the waters of the south fork of the Yuba River and conveys them to the Bear River. The Miner's Ditch extension was constructed about the year 1870, for the purpose of assuring a supply of water from the south fork of the Yuba River for the mining operations in and about Gold Run at those seasons of the year during which sufficient water could not be conveyed from the Bear River by the Miner's Canal. It appears that the owners of the waters conveyed by the Miner's Canal and the Miner's Ditch extension have never held themselves out as supplying water to the public and that they have never been a public utility.

In return for these canals and water rights, the Pacific Gas and Electric Company will cause to be surrendered and canceled a certain promissory note bearing date January 2, 1912, for a principal sum of \$130,000.00, made by United Water and Power Company of California to Arthur L. Pearse, and two other promissory notes bearing date January 4, 1912, made by said United Water and Power Company of California to said Arthur L. Pearse, for principal sums aggregating \$4,792.00; also will secure the release of mortgage securing the payment of said note of \$130,000.00; also will pay, to United Water and Power Company of California the sum of \$25,000.00; also will cause to be transferred to such person or persons as may be designated by the United Water and Power Company of California 6,400 shares of said company's common stock, now owned or supposed to be owned by A. L. Pearse; also will give to said United Water and Power Company a quitclaim deed, subject to certain reservations, conveying all of the Pacific Gas and Electric Company's estate in what is known as the Rattlesnake Ditch, in sections 2 and 3, township 15 north, range 10 east, M. D. B. and M., southeast of Dutch Flat, with rights of way, a dam, and water rights connected therewith. The purpose of quitclaiming the Rattlesnake Ditch and appurtenances is to enable the United Water and Power Company to secure water necessary for its mining operations in the vicinity of Gold Run during a portion of the year.

The only portion of this application as to which this Commission's consent is necessary is the conveyance by Pacific Gas and Electric

Company of its interest in the Rattlesnake Ditch and appurtenances and the water rights connected therewith.

The purpose of the Pacific Gas and Electric Company in entering into the proposed agreement is to enable it to take the waters which have hitherto been conveyed through the Miner's Ditch extension and to continue them down the south fork of the Yuba River, so as to help fill Lake Spaulding, and also to take the waters which have hitherto been conducted from the Bear River through the Miner's Canal and to use them either in connection with the operations which the company has heretofore conducted through the Boardman Canal, or to use them in connection with Power Developments Nos. 4, 5 and 6 on the extension of the Bear River Canal. It appears that the complete development of Lake Spaulding, and the hydroelectric developments connected therewith, demands that the water hitherto conveyed from the south fork of the Yuba River through the Miner's Ditch extension be permitted to continue down the south fork of the Yuba River into Lake Spaulding, so as to help fill that lake. The company also claims that it would be desirable to own the Miner's Canal and the Miner's Ditch extension for use in case its other canals in the same locality for any reason become unavailable.

The Commission does not have sufficient evidence to enable it to say whether or not the consideration paid represents the actual value of the property to be conveyed by each of the companies. The agreement which has been reached between these companies represents the result of extended negotiations and both parties are satisfied with the agreement as finally entered into and attached as Exhibit "A" to the petition in this proceeding. It should be understood that the considerations which have been agreed upon between the parties to said agreement shall not be used in any rate-fixing inquiry or other matter pending before this Commission or any other public authority, as representing the real value of the properties affected, and the order in this proceeding will contain a condition to this effect.

We understand that there is certain litigation affecting certain waters in this vicinity. The order in this proceeding is, of course, subject to all rights of third parties.

I recommend that the application be granted in so far as this Commission's consent is necessary, and submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company and United Water and Power Company of California having filed with this Commission their application for authority to purchase and sell certain properties, referred to in the opinion which precedes this order, which properties are more specifically described in said application and in the exhibits attached

thereto, and it appearing that this Commission's authority is necessary only in connection with the properties which are to be conveyed by the Pacific Gas and Electric Company, which properties are hereinafter more specifically designated, and it appearing that said application should be granted.

It is hereby ordered that Pacific Gas and Electric Company is authorized to transfer to United Water and Power Company of California all of said Pacific Gas and Electric Company's rights, titles, interests and authorities in and to what is known as the Rattlesnake Ditch, together with the dam in Canyon Creek, by means of which water is diverted from said creek into said Rattlesnake Ditch, and the water right used in connection with said ditch and dam, subject to such prior rights as said Pacific Gas and Electric Company may have to divert the waters naturally flowing in said Canyon Creek by means of its existing diverting dams and ditches located above the head of said Rattlesnake Ditch, and also subject to the right reserved in said Pacific Gas and Electric Company to the temporary use of said Rattlesnake Ditch for conveying its own water in case of emergency, all as specified in Exhibit "A" attached to the application in this proceeding.

This order is made upon the express condition that the consideration paid by the parties to the agreement for the properties respectively conveyed by them shall not be taken before this Commission or any other public authority as representing in a rate-fixing or any other inquiry the actual value of said properties or any of them.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION No. 795.

PALO ALTO GAS COMPANY

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 395.

Decided July 19, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Upon the request of the complainant in the above entitled proceeding, made at the hearing therein held in San Francisco, California, on July

Company of its interest in the Rattlesnake Ditch and appurtenances and the water rights connected therewith.

The purpose of the Pacific Gas and Electric Company in entering into the proposed agreement is to enable it to take the waters which have hitherto been conveyed through the Miner's Ditch extension and to continue them down the south fork of the Yuba River, so as to help fill Lake Spaulding, and also to take the waters which have hitherto been conducted from the Bear River through the Miner's Canal and to use them either in connection with the operations which the company has heretofore conducted through the Boardman Canal, or to use them in connection with Power Developments Nos. 4, 5 and 6 on the extension of the Bear River Canal. It appears that the complete development of Lake Spaulding, and the hydroelectric developments connected therewith, demands that the water hitherto conveyed from the south fork of the Yuba River through the Miner's Ditch extension be permitted to continue down the south fork of the Yuba River into Lake Spaulding, so as to help fill that lake. The company also claims that it would be desirable to own the Miner's Canal and the Miner's Ditch extension for use in case its other canals in the same locality for any reason become unavailable.

The Commission does not have sufficient evidence to enable it to say whether or not the consideration paid represents the actual value of the property to be conveyed by each of the companies. The agreement which has been reached between these companies represents the result of extended negotiations and both parties are satisfied with the agreement as finally entered into and attached as Exhibit "A" to the petition in this proceeding. It should be understood that the considerations which have been agreed upon between the parties to said agreement shall not be used in any rate-fixing inquiry or other matter pending before this Commission or any other public authority, as representing the real value of the properties affected, and the order in this proceeding will contain a condition to this effect.

We understand that there is certain litigation affecting certain waters in this vicinity. The order in this proceeding is, of course, subject to all rights of third parties.

I recommend that the application be granted in so far as this Commission's consent is necessary, and submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company and United Water and Power Company of California having filed with this Commission their application for authority to purchase and sell certain properties, referred to in the opinion which precedes this order, which properties are more specifically described in said application and in the exhibits attached

thereto, and it appearing that this Commission's authority is necessary only in connection with the properties which are to be conveyed by the Pacific Gas and Electric Company, which properties are hereinafter more specifically designated, and it appearing that said application should be granted,

It is hereby ordered that Pacific Gas and Electric Company is authorized to transfer to United Water and Power Company of California all of said Pacific Gas and Electric Company's rights, titles, interests and authorities in and to what is known as the Rattlesnake Ditch, together with the dam in Canyon Creek, by means of which water is diverted from said creek into said Rattlesnake Ditch, and the water right used in connection with said ditch and dam, subject to such prior rights as said Pacific Gas and Electric Company may have to divert the waters naturally flowing in said Canyon Creek by means of its existing diverting dams and ditches located above the head of said Rattlesnake Ditch, and also subject to the right reserved in said Pacific Gas and Electric Company to the temporary use of said Rattlesnake Ditch for conveying its own water in case of emergency, all as specified in Exhibit "A" attached to the application in this proceeding.

This order is made upon the express condition that the consideration paid by the parties to the agreement for the properties respectively conveyed by them shall not be taken before this Commission or any other public authority as representing in a rate-fixing or any other inquiry the actual value of said properties or any of them.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION No. 795.

PALO ALTO GAS COMPANY

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 395.

Decided July 19, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Upon the request of the complainant in the above entitled proceeding, made at the hearing therein held in San Francisco, California, on July

15, 1913, before Commissioner Thelen, the above entitled proceeding is hereby dismissed without prejudice.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION NO. 796.

HIGMAN LUMBER COMPANY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY AND SAN PEDRO,
LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 393.

Decided July 19, 1913.

Complainant alleges excessive rates on lumber on the lines of the Salt Lake Railroad Company and Pacific Electric Railway Company between East San Pedro and Florence avenue, outside the city limits of Los Angeles.

Held. That the lumber rate of six cents per one hundred pounds between these points is excessive and discriminatory, and defendants ordered to publish a rate of \$1.00 per ton on lumber in carload lots.

E. A. Stewart, for Complainant.

Frank Karr, for Pacific Electric Railway Company.

A. S. Halsted, for San Pedro, Los Angeles and Salt Lake Railroad Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Complainant in this case is engaged in the lumber business at a point known as Florence avenue, outside of the city of Los Angeles and served by the Pacific Electric Railway. The yard of the complainant is located at Long Beach avenue and Florence avenue.

Complainant alleges that the joint rate for the transportation of lumber and forest products from East San Pedro and East Wilmington to Florence avenue, via the San Pedro, Los Angeles and Salt Lake Railroad and the Pacific Electric Railway, of six cents per 100 pounds is excessive, unreasonable and discriminatory. The complainant alleges that a rate of four cents per 100 pounds for the joint movement between these two lines is a just and reasonable rate. The complainant bases its action on the fact that the defendant, San Pedro, Los Angeles and Salt Lake Railroad, maintains in conjunction with the Atchison,

Topeka and Santa Fe Railroad a joint through rate of four cents per 100 pounds on lumber and forest products in carload lots from East San Pedro to Los Angeles via Hobart, and also that the rate of both of the defendants in this case from San Pedro and East San Pedro, as well as the rate of the Southern Pacific Railroad from San Pedro, and the Santa Fe from Redondo and Los Angeles, is on the basis of four cents per 100 pounds.

I may say at this time that the mere fact that the line of railway operating over the entire distance between two given points accepts a certain rate as reasonable for the service does not by any means establish the fact that for a joint movement of two lines the same must be applicable for the same distance. If the aggregate amount of the rate is large, carriers might reasonably be expected to shrink their locals, but where the distance is short and the rate in the aggregate is not large, in my judgment it does not follow that the rate of a two-line movement should be the same as for a one-line movement.

The defendants, however, maintain regular interchange relations at Long Beach and, according to a division sheet on file with this Commission, the San Pedro, Los Angeles and Salt Lake Railroad accepts twenty-five cents per ton as its proportion of through rates on lumber routed via Long Beach in connection with the Pacific Electric Railway.

The Pacific Electric Railway's rate from Long Beach to Los Angeles is eighty cents per ton, which, of course, can not be exceeded at Florence avenue. Under no circumstances should a through rate exceed \$1.05 per ton from East San Pedro and East Wilmington to Florence avenue, and we fail to understand how the defendants in this case expect to justify any higher rate.

It must be admitted that the Pacific Electric Railway performs a less service from Long Beach to Florence avenue than it does between Long Beach and Los Angeles, and if, therefore, it is willing to accept eighty cents per ton, Long Beach to Los Angeles, the rate to Florence avenue should be somewhat less. I am not unmindful of the fact that in some cases, particularly where heavy freight trains are being operated direct from the ports to Los Angeles, it would be more economical for the carriers to handle lumber direct into Los Angeles and haul it back rather than stop its heavy trains and perform switching services at intermediate points, but this condition does not exist on the Pacific Electric Railway, particularly to the extent that that company should receive from Long Beach to Florence avenue its full local rate, Long Beach to Los Angeles.

After a full and careful consideration of all the testimony and evidence in this case, I find as a fact that the joint through rate of the

San Pedro, Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company on lumber and forest products of six cents per 100 pounds from East Wilmington and East San Pedro to Florence avenue is excessive and unreasonable and should not exceed the rate of \$1.00 per ton of 2,000 pounds.

The complainant asks for reparation because of the alleged excessive and unreasonable rate which has been collected. While we find that the present rate is excessive and unreasonable and prescribe a reasonable rate to govern future shipments, the complainant has not proven that he suffered damages by reason of the collection of the rate which we have found to be unreasonable. As far as we know complainant added the freight rate to the selling price of his lumber, and if this is the case the consumer and not the complainant was damaged. (*Darnell-Taenzer Lumber Company et al. vs. The Southern Pacific Company et al.*, 190 Fed. 659; *Deming Lumber Company et al. vs. Southern Pacific Co. et al.*, 24 I. C. C. 598.)

I recommend the following order:

ORDER.

Higman Lumber Company having filed a complaint alleging that the joint rate of six cents per 100 pounds on lumber and forest products, carloads, from East San Pedro and East Wilmington to Florence avenue, via the San Pedro, Los Angeles and Salt Lake Railroad and the Pacific Electric Railway, is excessive, unreasonable and discriminatory, and a regular hearing having been held, and basing this order on the findings of fact in the opinion which precedes this order,

It is hereby ordered that the San Pedro, Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company publish and file with this Commission, in the manner prescribed by law, tariff naming rate of \$1.00 per ton of 2,000 pounds on lumber, carload lots, from East San Pedro and East Wilmington to Florence avenue within twenty days from the effective date of this order, which said joint rate of \$1.00 per ton is hereby established as a just and reasonable rate for such service.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California in the above entitled case.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION No. 797.

IN THE MATTER OF THE APPLICATION OF EL MOLINO TERRACE LAND AND WATER COMPANY FOR AUTHORIZATION TO SELL CERTAIN REAL PROPERTY AND WATER DISTRIBUTING SYSTEM TO THE CITY OF PASADENA AND OF THE CITY OF PASADENA TO PURCHASE SAID PROPERTY.

Application No. 622.

Decided July 19, 1913.

Application of the El Molino Terrace Land and Water Company to sell its water system to the City of Pasadena for \$5,800.00, granted.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application of El Molino Terrace Land and Water Company to sell to the city of Pasadena a certain water distributing system and real estate connected therewith and of the city of Pasadena to purchase said property for the sum of \$5,800.00.

The El Molino Terrace Land and Water Company was incorporated in October, 1908, and has been serving water as a public utility to a small portion of the city of Pasadena. It has served no one outside of the incorporated limits of the city. It now proposes to sell to the city its water distributing system and certain real property connected therewith in the city of Pasadena, consisting of 188 meters, 22,722 lineal feet of pipe of different diameters, its reservoir having a capacity of 500,000 gallons, and two lots of land, all as described in deed from El Molino Terrace Land and Water Company to city of Pasadena, executed June 4, 1913, a copy whereof is attached as Exhibit "B" to the petition in this proceeding. The reasons specified on the part of El Molino Terrace Land and Water Company for making said sale are that the territory served by its distributing system lies entirely within the corporate limits of the city of Pasadena; that the company has not sufficient water or distributing equipment to satisfy the growing demands for water in the territory which it has undertaken to serve; and that the city of Pasadena has sufficient water and equipment for such purpose and that the proposed sale to the city will result in equalized pressure and adequate service within said territory.

On June 27, 1912, the electors of the city of Pasadena authorized the city by a vote of approximately ten to one to incur a bonded indebted-

edness of \$1,250,000.00 for the acquisition of a water works and system to supply the city and its inhabitants with water. Acting in pursuance of its general plan to acquire the systems of all existing companies within the city limits, the city of Pasadena, acting under authorization of this Commission, has heretofore acquired the water distributing systems and property connected therewith of the three largest companies serving the city, namely, the Pasadena Lake Vineyard Land and Water Company (see this Commission's order dated October 14, 1912, in Application No. 222), North Pasadena Land and Water Company (see this Commission's order dated October 14, 1912, in Application No. 223), and Pasadena Land and Water Company (see this Commission's order dated October 14, 1912, in Application No. 238). The city of Pasadena now desires to purchase for the sum of \$5,800.00 that portion of the property of the El Molino Terrace Land and Water Company, consisting of meters, pipe line, reservoir and real estate, particularly described in said Exhibit "B." The reasons for said purchase specified on the part of the city of Pasadena are that the city has recently acquired the water distributing systems serving the major portion of the inhabitants of the city and is desirous of acquiring and operating as a unit all the water distributing systems serving water within its limits; that the inhabitants of the city residing within the territory served by the El Molino Terrace Land and Water Company have, during the last six months, frequently complained to the officers of the city because of the inadequate service and the unequal and varying pressure of water served by said company; and that in order to fulfill its duty to its inhabitants and satisfy their just demands for an adequate water supply, it is necessary that the city acquire the real property and distributing system described in the deed hereinbefore referred to.

The sum to be paid for the property, namely, \$5,800.00, is satisfactory to the city. An examination by this Commission's engineering department of the inventory showing the values allowed, shows that such values are reasonable.

I find that public convenience and necessity will be served by the purchase of the property specified by the city of Pasadena and recommend that the application be granted. I submit herewith the following form of order:

ORDER.

El Molino Terrace Land and Water Company having applied to this Commission for an order authorizing the sale to the city of Pasadena of certain real property and water distributing system, referred to in the opinion which precedes this order and specifically described in deed from El Molino Terrace Land and Water Company to city of Pasadena, dated June 4, 1913, a copy whereof is attached to the petition

in this proceeding and marked "Exhibit B," and the city of Pasadena having applied for an order authorizing the purchase of said property, and a public hearing having been held upon said application and the Commission finding that public convenience and necessity will be served by the granting of said application,

It is hereby ordered that said application be and the same is hereby granted.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION No. 798.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF ADDITIONAL POWER PLANTS ON AN EXTENSION OF BEAR RIVER CANAL AND A TRANSMISSION LINE FROM POWER DEVELOPMENT NO. 5 ON BEAR RIVER TO NICOLAUS.

Application No. 563.

Decided July 19, 1913.

Application of the Pacific Gas and Electric Company to construct three additional hydroelectric power plants and a transmission line, granted.

Charles P. Cutten and William B. Bosley, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This Commission heretofore, in Application No. 69, by its order dated July 3, 1912, found that the present and future public convenience and necessity require the construction by Pacific Gas and Electric Company of two hydroelectric plants, with reservoirs, dams, conduits, ditches, flumes and appurtenances, on and near Bear River, in connection with what is known as the Lake Spaulding Development of Pacific Gas and Electric Company, and the construction of an electrical transmission line from said plants to a point in Solano County opposite Crockett, in Contra Costa County.

Pacific Gas and Electric Company now asks for a certificate that public convenience and necessity require the construction of three addi-

tional hydroelectric power plants in connection with the Lake Spaulding Development, to be known as Developments No. 4, No. 5 and No. 6, on an extension of the Bear River Canal, and the construction of a transmission line from Power Development No. 5 to Nicolaus. The hydroelectric power plant and appurtenances known as Development No. 4 is to be constructed near Clipper Gap and is to cost \$578,500.00. The Development No. 5 is to be constructed near Auburn and is to cost \$1,118,000.00. Development No. 6 is to be constructed below New-castle and is to cost \$602,000.00. The transmission line from Development No. 5 to Nicolaus is to cost \$97,500.00. The total expenditure for these four items is to be \$2,396,000.00.

Applicant states that the construction of these three power houses, with appurtenances, is a portion of the original Lake Spaulding Development plan and that the construction thereof is necessary to take care of its growing business, to take the place of a portion of applicant's electric energy now generated by steam and to take the place of certain hydroelectric energy now purchased by applicant from other companies.

Applicant intends to transmit waters from Lake Spaulding, in Nevada County, California, through what is known as the Drum Canal, to what is known as the Drum Power House, located on Bear River. After the water has been used in connection with this power house, it is to be taken down the Bear River to what is known as the Bear River Canal. The capacity of this canal has been enlarged by applicant from 50 cubic feet per second to 350 cubic feet per second. The water will thence be conveyed through said canal to Developments Nos. 4, 5 and 6 in turn, and will thereafter be utilized for irrigating lands in Placer County, the larger part of which are not now being irrigated. At Development No. 4 there will be an installation of 10,000 kilowatts, at Development No. 5 an installation of 15,000 kilowatts and at Development No. 6 an installation of 10,000 kilowatts. The total average kilowatt capacity for these developments, as alleged by applicant, will be 26,000 kilowatts. The electric energy to be developed by Power Development No. 4 will be transmitted over the existing transmission line to the city of Sacramento. The electric energy to be developed in Developments Nos. 5 and 6 will be transmitted over the proposed new transmission line from Power Development No. 5 to Nicolaus, at which point a connection will be made with the transmission line from the Drum Power House to applicant's North Tower Station in Solano County, opposite Crockett, in Contra Costa County.

Applicant has hitherto received the necessary franchises for the construction of the transmission line. It is not intended to distribute any energy from this line.

I find that public convenience and necessity require the construction of the power developments and transmission line hereinbefore referred to, and recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company having filed with this Commission its application for a certificate that public convenience and necessity require the construction of three additional hydroelectric power plants on an extension of Bear River Canal and of a transmission line from Power Development No. 5 on the Bear River Canal to Nicolaus, as appears in greater detail in the opinion which precedes this order, and a public hearing having been held on said application, the Commission hereby declares that the present and future public convenience and necessity require and will require such construction.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of July, 1913.

Decisions Nos. 799, 800, 801, and 802, grade crossing; not printed. See end of volume.

DECISION No. 803.

J. H. MILLER AND E. DONALDSON, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF MILLER & DONALDSON,

vs.

THE WILMINGTON TRANSPORTATION COMPANY.

Case No. 381.

Decided July 19, 1913.

REPORT OF THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

The defendant in the above entitled proceeding having filed its petition for rehearing, and the Commission having carefully and fully considered this matter on the original motion, and no new authorities or arguments having been presented in said petition and no sufficient reason appearing for granting a rehearing,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this 19th day of July, 1913.

DECISION No. 804.

IN THE MATTER OF THE INVESTIGATION OF THE WRECK
OCCURRING ON JUNE 19, 1913, ON THE LINE OF THE
SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY.

Case No. 416.

Decided July 21, 1913.

Held, That dispatcher's inexperience was directly responsible for wreck, that company's officials must be held liable for his failure to do his duty.

REPORT OF THE COMMISSION.

On June 19, 1913, a head-end collision occurred on the line of the San Francisco, Napa and Calistoga Railway Company between northbound passenger train No. 6 and southbound passenger train No. 5 at a point approximating 2.4 miles north of Vallejo, resulting in the death of ten passengers and three employees and the injury of at least twenty-five passengers and three employees.

The San Francisco, Napa and Calistoga Railway Company, which will hereinafter be referred to as the railway company, operates a single track electric interurban railway between Vallejo and Calistoga, a distance of some 41.6 miles.

Immediately on being informed of the accident on the morning of June 19, 1913, this Commission, in accordance with its usual practice, instructed its engineering department to make an immediate investigation to ascertain the cause of the accident. The engineering department proceeded at once to make an exhaustive investigation, and has presented the result of its investigation to this Commission in its report dated June 28, 1913. A copy is attached to this report and made a part thereof, and the findings therein are approved and adopted as the findings of this Commission.

It will be noted that the causes of the accident, as found by the engineering department and approved by this Commission, are as follows:

(1) The failure of Conductor Richmond to secure a clearance from the dispatcher before leaving Vallejo with northbound passenger train No. 6.

(2) The failure of Motorman Hough on the same train to obtain the clearance from his conductor.

(3) Dispatcher O'Leary's violation of the rule requiring him to first restrict the superior train before moving the inferior train.

(4) The failure of the officers of the railway company to insist on a compliance with the rules of the company in the foregoing respects, and in other respects, resulting in a general failure to comply with the rules governing the operation of its trains.

We desire to draw particular attention to the violation of Rule 268 reading as follows:

“When trains running in opposite directions are to be moved toward each other by train orders, the train whose rights are to be restricted must first receive the order and the complete * * before the order is given to the train to be moved against it or toward it.”

It appears that trains Nos. 5 and 6 were running in opposite directions, and that they were to be moved toward each other by train orders. Train No. 6 was to run north from Vallejo and train No. 5 south towards Vallejo. Train Dispatcher O'Leary decided to restrict the rights of train No. 6, so that it would pass train No. 5 at a siding south of the usual siding, and to correspondingly enlarge the rights of train No. 5.

Under Rule No. 268, it was clearly the duty of Dispatcher O'Leary to restrict the rights of train No. 6 before directing train No. 5 to pass the point of usual meeting place and continue its trip toward train No. 6. The evidence shows that Dispatcher O'Leary failed in his duty. He was shown to be inexperienced, and he admitted that he had never read the rules.

The violation of this rule by O'Leary was directly responsible for the wreck, and the officials of the company must be held liable for Dispatcher O'Leary's failure in his duty.

The dispute between the conductor of train No. 6 and the train dispatcher is relatively unimportant as compared with the failure to comply with Rule No. 268. Under the plain provision of that rule, the dispatcher had no right to notify the conductor of the southbound train of the change in meeting place until he had notified the conductor of the northbound train, and had received such conductor's acknowledgement and the order had been completed as to him. Only after such order had been given to train No. 6 and so completed had the dispatcher any right to give the order to the southbound train.

The Commission's investigations of the operation of interurban electric railroads in this State show that they largely have failed to operate their railroads as demanded for the safety of the traveling public. This has largely been due to the fact that the managers of such railroads are inclined to operate them as though they were ordinary street car lines, forgetting that the cars actually operated are interurban cars maintaining a high rate of speed.

The Commission's general inspection of the operation of electric railroads carried on with its general engineering force developed the fact

that while ordinarily the rules adopted by these companies are proper, yet the officials were not requiring the compliance with these rules which safety of operation requires. In order the better to handle this branch of this work, the Commission on April 10, 1913, employed Mr. Hugh Wilson as service inspector to work in conjunction with the engineering department, and since then Mr. Wilson has devoted his entire time to careful inspection and check of these utilities. He was instructed to inspect and report on all of the lines of the State, and on April 30th he began an inspection of the lines of the Central California Traction Company; on May 8th, of the Oakland and Antioch; on May 11th, of the San Diego and Southeastern; on May 15th, of the Petaluma and Santa Rosa; on May 22d, of the San Francisco, Napa and Calistoga, and on May 24th, of the Peninsular Railway. The inspection completed before the wreck here under consideration verified the conclusion that we have already stated, namely, that only slight changes of rules are ordinarily necessary, but much improvement is necessary in the manner in which the established rules and regulations are complied with. It appears, for instance, in the case of the wreck which we are considering, that the real cause was not the failure to adopt rules, but the failure to require compliance with established rules and regulations, and the failure in such a way that this Commission can not escape the conclusion that it is directly traceable to the officials of this company.

It is manifestly impossible for this Commission to require employees of utilities to comply in all respects with the rules adopted by such utilities unless it be given a force sufficiently large to operate the utilities of the State. Of course this can not be done and it should not be expected, but the Commission and other public authorities can and will require the officials of these companies to see that their rules are complied with or assume the legal consequences of such failure. Regard for the public welfare, if not for the property under their control, should induce managers and owners of public utilities to see that they are safely operated. While we shall, to the extent of our ability, check the violation of the rules, still we must look to the officials of the companies to see that the rules are complied with. One of the main causes of wrecks from violations of rules, in our opinion, is the failure of officials of railroads to see that violations of rules are punished regardless of the result of such violations. The practice too common is merely to discharge or punish that employee whose violation of the rules has resulted in disaster. Violation of a rule which results in no disaster should and must be as severely dealt with as the violation which is not successful and which results in loss of property or life. We desire to impress this fact upon the public utility officials and owners and to insist that it is their duty to see that the proper rules

are complied with in every respect, and they should not feel that they have acquitted themselves properly when they discharge or punish the employee when disaster has been the consequence of his failure to comply with the rules. We can reach no other conclusion than that many officials of railroads at present connive at and in effect sanction departure from or violation of important rules of safety in those instances when no damage results therefrom. This practice must be discontinued.

Most of these interurban lines should be protected by block signals, and our engineer has been directed to have a thorough investigation made of all these roads with a view to requiring the installation of block signals at once in the more urgent cases and gradually in all cases. If the installation of the necessary safety devices requires an increase of the rates of these utilities, such increase will be allowed. The traveling public has a right to be protected, and should be willing to pay for such protection. Up to the present time, however, in this State, it can not be said by any public utility that its failure to install proper safety devices is due to inadequate rates. No suggestion has come from any one of them that this Commission permit an increase in rates for this purpose. The Commission stands ready at all times, however, to permit rates high enough to pay a reasonable return upon the fair value of the property devoted to the public service, good wages to experienced men, and installation of such appliances as may be necessary to promote the safety of the traveling public and employees of the utilities under its jurisdiction.

Dated at San Francisco, California, this 21st day of July, 1913.

SAN FRANCISCO, Cal., June 28, 1913.

Railroad Commission of the State of California, San Francisco, California.

DEAR SIRS: On June 19, 1913, the San Francisco, Napa and Calistoga Railway Company reported to this Commission by telephone a head-end collision between northbound passenger train No. 6 and southbound passenger train No. 5 at a point approximately 2.4 miles north of Vallejo, resulting in the death of ten passengers, three employees, and in the injury, as far as can be ascertained, of twenty-five passengers and three employees. Several passengers, who are not included in the above, were injured and hurriedly taken away by automobile to private residences.

After an investigation of this accident and circumstances connected therewith, I beg to submit the following report:

This railroad is a single track electric line of the overhead catenary type, running from Vallejo to Calistoga, a distance of 41.6 miles, and

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that while ordinarily the rules adopted by these companies are proper, yet the officials were not requiring the compliance with these rules which safety of operation requires. In order the better to handle this branch of this work, the Commission on April 10, 1913, employed Mr. Hugh Wilson as service inspector to work in conjunction with the engineering department, and since then Mr. Wilson has devoted his entire time to careful inspection and check of these utilities. He was instructed to inspect and report on all of the lines of the State, and on April 30th he began an inspection of the lines of the Central California Traction Company; on May 8th, of the Oakland and Antioch; on May 11th, of the San Diego and Southeastern; on May 15th, of the Petaluma and Santa Rosa; on May 22d, of the San Francisco, Napa and Calistoga, and on May 24th, of the Peninsular Railway. The inspection completed before the wreck here under consideration verified the conclusion that we have already stated, namely, that only slight changes of rules are ordinarily necessary, but much improvement is necessary in the manner in which the established rules and regulations are complied with. It appears, for instance, in the case of the wreck which we are considering, that the real cause was not the failure to adopt rules, but the failure to require compliance with established rules and regulations, and the failure in such a way that this Commission can not escape the conclusion that it is directly traceable to the officials of this company.

It is manifestly impossible for this Commission to require employees of utilities to comply in all respects with the rules adopted by such utilities unless it be given a force sufficiently large to operate the utilities of the State. Of course this can not be done and it should not be expected, but the Commission and other public authorities can and will require the officials of these companies to see that their rules are complied with or assume the legal consequences of such failure. Regard for the public welfare, if not for the property under their control, should induce managers and owners of public utilities to see that they are safely operated. While we shall, to the extent of our ability, check the violation of the rules, still we must look to the officials of the companies to see that the rules are complied with. One of the main causes of wrecks from violations of rules, in our opinion, is the failure of officials of railroads to see that violations of rules are punished regardless of the result of such violations. The practice too common is merely to discharge or punish that employee whose violation of the rules has resulted in disaster. Violation of a rule which results in no disaster should and must be as severely dealt with as the violation which is not successful and which results in loss of property or life. We desire to impress this fact upon the public utility officials and owners and to insist that it is their duty to see that the proper rules

are complied with in every respect, and they should not feel that they have acquitted themselves properly when they discharge or punish the employee when disaster has been the consequence of his failure to comply with the rules. We can reach no other conclusion than that many officials of railroads at present connive at and in effect sanction departure from or violation of important rules of safety in those instances when no damage results therefrom. This practice must be discontinued.

Most of these interurban lines should be protected by block signals, and our engineer has been directed to have a thorough investigation made of all these roads with a view to requiring the installation of block signals at once in the more urgent cases and gradually in all cases. If the installation of the necessary safety devices requires an increase of the rates of these utilities, such increase will be allowed. The traveling public has a right to be protected, and should be willing to pay for such protection. Up to the present time, however, in this State, it can not be said by any public utility that its failure to install proper safety devices is due to inadequate rates. No suggestion has come from any one of them that this Commission permit an increase in rates for this purpose. The Commission stands ready at all times, however, to permit rates high enough to pay a reasonable return upon the fair value of the property devoted to the public service, good wages to experienced men, and installation of such appliances as may be necessary to promote the safety of the traveling public and employees of the utilities under its jurisdiction.

Dated at San Francisco, California, this 21st day of July, 1913.

SAN FRANCISCO, Cal., June 28, 1913.

Railroad Commission of the State of California, San Francisco, California.

DEAR SIRs: On June 19, 1913, the San Francisco, Napa and Calistoga Railway Company reported to this Commission by telephone a head-end collision between northbound passenger train No. 6 and southbound passenger train No. 5 at a point approximately 2.4 miles north of Vallejo, resulting in the death of ten passengers, three employees, and in the injury, as far as can be ascertained, of twenty-five passengers and three employees. Several passengers, who are not included in the above, were injured and hurriedly taken away by automobile to private residences.

After an investigation of this accident and circumstances connected therewith, I beg to submit the following report:

This railroad is a single track electric line of the overhead catenary type, running from Vallejo to Calistoga, a distance of 41.6 miles, and

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is operated under a Book of Rules and Regulations compiled from the Rules and Regulations of the American Street and Interurban Transportation and Traffic Association. No block signals are used.

Train orders directing the movements of trains are transmitted by telephone, and such train orders are received and entered by conductors and motormen on account of the railroad company maintaining no telephone operators or station men whose duties require them to receive train orders.

On June 19, 1913, northbound train No. 6 left Vallejo at 9.19 a. m., seventeen minutes late, due to the connecting boat from San Francisco with passengers, baggage and express, being delayed by an adverse tide. This train runs daily between Vallejo and Calistoga, 41.6 miles, and is due to leave Vallejo at 9.02 a. m. The train consisted of two cars—car No. 41, the motor car, and car No. 44, the trailer—and was in charge of Conductor Horace Richmond and Motorman E. C. Hough.

Southbound train No. 5 runs daily between Calistoga and Vallejo, and is due to leave Calistoga at 7.42 a. m. and arrive in Vallejo at 9.35 a. m. On the day of the accident this train consisted of one car, No. 50, in charge of Conductor B. E. Patten and Motorman William Juarez.

As near as can be ascertained there were about fifty passengers on southbound train No. 5 and forty passengers on northbound train No. 6, and at the time of the accident Conductor Richmond of northbound train No. 6 had not completed the taking of tickets. Trains Nos. 5 and 6 are due to meet at Collins, which is 5 miles north of Vallejo, at 9.18 a. m. Train No. 5 left Calistoga at 7.42 a. m., left Napa at 8.58 a. m., two minutes late, and arrived at Collins at approximately 9.18 a. m. Conductor Patten of southbound train No. 5, upon arrival at Collins at approximately 9.18 a. m., called Dispatcher O'Leary at Napa on the telephone for orders. Dispatcher O'Leary then called Vallejo station on the telephone and received word from the agent there that train No. 6 was still at Vallejo loading express. Dispatcher O'Leary then telephoned to Conductor Patten of train No. 5 at Collins, the following order, which was Order No. 3 of June 19, 1913:

“Train 5 meet train 6 at Hatch.”

This order was made complete at 9.19 a. m.

From all of the evidence it appears that train No. 6 left Vallejo without Order No. 3, and left during the time the dispatcher was in the act of giving southbound train No. 5 the order, which was between 9.18 and 9.19 a. m.

The three cars in this collision were five or six years old, had wooden bodies, and weighed between fifty and sixty tons, with a total length over all of fifty-eight feet, and seating capacity of sixty-two passengers. The motor cars were equipped with Westinghouse electric equipment

and Westinghouse air brake. The motors were geared to run at a speed of forty-five miles per hour, and, no doubt, both trains were making that speed at the time the motorman discovered the impending collision. The speed of train No. 5 at the instant of collision was reduced to about twenty miles per hour and that of train No. 6 was not materially reduced.

The collision occurred approximately 2.4 miles north of the Vallejo depot, or at a point which is about 4,000 feet north of the northerly limits of the city of Vallejo, and between Engineer's Stations 126 and 129, at a point where the track from the company's private right of way runs into the Vallejo-Napa County Road (see situation plan, Exhibit "A"). The track north of the point of the accident is straight for about 1,400 feet, then curves to the right, through an angle of 11 degrees 27 minutes into a tangent over one mile in length. South of the point of collision the track is on a reverse 7-degree curve through an angle of 36 degrees leading into a tangent about 1,000 feet in length. At the point of the accident there is a descending grade to the south of 0.32 per cent for about 1,000 feet, and at each end of this grade the track is practically level.

As stated above, northbound train No. 6 left Vallejo late, and both trains were traveling at a high rate of speed as is evidenced by the accompanying photographs. The body of the southbound car, No. 50, was lifted from its trucks and telescoped about halfway into the forward car No. 41, of northbound train No. 6. The body of car No. 41 was practically demolished, only four pairs of rear seats remaining intact. All of the killed passengers and employees, and most of the injured, were in this car. No passengers in southbound car No. 50 were fatally injured. The trucks did not leave the rails and the cars remained upright. The overhead power transmission wires were not disturbed, and the track was not damaged.

Buildings, high cedars, eucalyptus trees, and also a young eucalyptus growth from 6 to 10 feet high on the west side of the right of way which is so close to trains that the branches touch the cars, obstructed the view for both northbound and southbound motormen until within a few hundred feet of the point of accident, rendering this particular piece of track dangerous. These visual obstructions are shown on the situation plan, Exhibit "A." That the company realized the danger caused by these obstructions is evidenced by the fact that the eucalyptus trees next to the right of way were cut down this spring and the bushes from 6 to 10 feet high are new growth during the present year.

Dispatcher O'Leary's statement concerning the accident is that when Conductor Patten of southbound train No. 5 called him over the telephone from Collins for orders, he immediately called Vallejo Station,

and was advised by the agent that train No. 6 had not left Vallejo and was still loading express and baggage. He thereupon gave Conductor Patten Order No 3, which was for train 5 to meet train 6 at Hatch. He states further that he received no call whatever from Conductor Richmond at Vallejo after he reported his train into Vallejo at 7.29 a. m.

Conductor Richmond of train No. 6 states that about seventeen minutes after his scheduled leaving time at Vallejo (9.02 a. m.) he called Dispatcher O'Leary on the telephone and received the usual verbal clearance "No orders."

Motorman Hough of train No. 6, prior to his death at the general hospital in Vallejo, stated that Conductor Richmond went to the telephone at Vallejo. He further stated that Richmond came out and said nothing, but just got on the rear of the car and gave two bells.

Conductor Patten of southbound train No. 5 verified Dispatcher O'Leary's statement in so far as receiving his order to meet train No. 6 at Hatch is concerned. He further overheard the conversation between Dispatcher O'Leary and the agent at Vallejo. He states further that he did not hear Conductor Richmond call for orders during the time he was using the telephone.

Motorman Juarez of southbound train No. 5 remained in the cab of his motor while Conductor Patten was obtaining orders at Collins and states that he heard Conductor Patten repeat his order. He further states that approaching the point of accident he saw train No. 6 approaching, shut off his current and immediately applied his emergency brake, reducing his speed to about twenty miles per hour when the collision occurred.

Motorman Hough made the statement that he had reduced his speed to about twenty-five miles per hour at the time of the accident.

Mr. Green, a passenger on train No. 6, was in the baggage part of the first car of train No. 6 at Vallejo during the loading of baggage and express. He states that Conductor Richmond was under his observation during the entire time of loading baggage and from the time he began to load the baggage until the loading was completed and the train left Vallejo. He states that he is positive Conductor Richmond did not go to the telephone to obtain orders.

Mr. Silverman, a passenger on train 6, who was in a seat in the first car of train No. 6 while the baggage was being loaded at Vallejo, states that he watched Conductor Richmond while the baggage was being loaded and did not observe him go to the telephone for orders prior to the departure of the train from Vallejo.

Officer Rafferty, who is a member of the Vallejo police force, stood on the wharf at Vallejo, in plain view of the train and also of the telephone booth. He states that he did not notice whether or not Conductor

Richmond went to the telephone to obtain orders, although Conductor Richmond maintains that he had conversation with Officer Rafferty and Officer Rafferty saw him, Conductor Richmond, go into the telephone booth.

The cause of this collision rests either with Conductor Richmond for his failure to call Dispatcher O'Leary on the telephone prior to leaving Vallejo, or else lies with Dispatcher O'Leary for failure to give the order to Conductor Richmond for train No. 6 to meet train No. 5 at Hatch. Dispatcher O'Leary's statement contradicts the statement made by both Horace Richmond, conductor, and E. B. Hough, motorman of the northbound train No. 6. Both assert that the conductor of train No. 6 did call from Vallejo for orders and that the dispatcher gave Conductor Richmond "No order." This would allow train No. 6 to proceed to its scheduled meeting point with train No. 5 at Collins. The fact that Dispatcher O'Leary was in the act of transmitting Order No. 3 over the telephone to Conductor Patten, who was then at Collins, at about the time when train No. 6 left Vallejo, would tend to the conclusion that Conductor Richmond failed to call the dispatcher for his usual telephone clearance. Some responsibility should also be placed upon Motorman Hough of train No. 6. If Conductor Richmond of train No. 6 called Dispatcher O'Leary from Vallejo before leaving with train No. 6, and, as he claims, received from the dispatcher "No order," meaning proceed and meet train 5 as per schedule, then O'Leary is responsible. Assuming Richmond's statement to be correct, he still is guilty of violating the rules of the company in that he did not repeat the clearance to his motorman, but instead gave him two bells, which is the signal to go ahead. Complying with the custom of the company at Vallejo, the motorman should have refused to start on this signal and should have insisted on receiving the verbal clearance from his conductor. Assuming that Dispatcher O'Leary's statement is correct, and Conductor Richmond of train No. 6 did not call for and left without orders, then the immediate responsibility is with Conductor Richmond and Motorman Hough.

The contributing cause of the accident is the improper methods of issuing train orders and the failure of the management of the company to operate their railroad with proper and safe rules, and with efficient and competent officers and employees. To illustrate this, it is only necessary to call attention to the violation of the rules consummated in the handling of this particular meet order, and also the violation of the rules which occurred in the movements of these two trains from the time each left its terminal until the collision occurred. These violations number in all 17 direct violations and 4 indirect violations, a part of which have a direct relation to the accident.

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RULE 88. SCHEDULED MEETING POINTS.

Rule No. 88 reads "Scheduled meeting points or passing points are indicated by figures in full-faced type; the number or numbers of trains they are to meet or pass are shown in small type above the full-faced type."

To comply with this rule, in making up their time card, just above and to the right of the figures 9.18 in the schedule of trains Nos. 5 and 6, at Hatch, should be inserted a small figure showing the train which each was to meet. This provision is not carried out in the time card.

RULE 90. SIGNS AND LETTERS.

This rule provides that at all regular stops of trains there should be inserted before the figures of the schedule the letter "S" and at all flag stops there should be inserted before the figures in the schedule the letter "F."

The schedules of trains 5 and 6 and also of all other trains in the time card are not made up in accordance with this rule as outlined in the Book of Rules.

RULE 91. DESIGNATION OF TRAINS.

This rule provides that "trains are designated by numbers and their class is indicated on the time table."

While this railroad shows schedules for passenger trains only, in their time card, they should indicate these as first-class trains.

They run freight trains, but do not show them in this time table. This is not necessary, as these trains are run as extras, but to technically comply with their rules they should have all of their scheduled trains show as first-class trains in the time table.

RULE 110. REAR-END SIGNALS.

This rule reads as follows: "The following signals will be displayed, one on each side of the rear of every train, as markers, to indicate the rear of the train: by day, green flags; by night, green lights to the front and side and red lights to the rear, except when the train is clear of the main track, when green lights must be displayed to the front, side and rear."

This railroad operated both trains Nos. 5 and 6 without "rear-end signals" being displayed. There is no objection to this if they had authorized the discontinuance of the practice by a bulletin. They operate an extra freight train which is usually made up of a motor and 4 or 5 cars, without having rear-end signals to indicate that the entire train is intact. It is a dangerous practice to neglect to show "rear-end" signals on freight trains.

RULE 118. COMMUNICATING SIGNAL APPLIANCES.

This rule reads as follows: "Each car on a passenger train must be connected with motor by a communicating signal appliance."

Train No. 6 on the date of this accident consisted of two cars and there was no communicating signal between the rear car and the first car. They use the old style gong with bell cord. If the conductor is in the rear car of his train he has no means of communicating signals to the motorman. He further has no emergency valve with which he can set the brakes on his train in case he desires to make a quick stop. There is no reason why the railway company should not supply their cars with the usual air signal appliances and the emergency valve in addition.

RULE 124. TRAIN ORDER SIGNALS.

"Semaphore signals used for train orders may be located at telephone stations. The arms have square ends and are attached to the same mast for trains in both directions."

To comply with this rule the railway company should maintain semaphore signals for train orders for the use of the operators handling train orders at St. Helena and Napa. Train No. 5 passed both of these stations on the date of the accident. At St. Helena it is the practice to have the agent use a red flag to stop trains to which the dispatcher desires to give train orders. At Napa the dispatcher personally delivers the orders to the conductor. This is unsafe practice for the reason that the operator at St. Helena or the dispatcher at Napa are liable to overlook the delivery of orders. If a train order signal was used, crews of trains would be responsible for calling for the orders and there would be less danger of a failure to deliver them. There should be signals installed at these points so that whenever it is desired to deliver orders for a train the signal can be displayed in a stop position before the order is placed in charge of the operator or before the dispatcher at Napa writes out his order for the train.

RULE 203. TRAINS LEAVING INITIAL STATIONS.

Part of Rule 203 reads:

"A train must not leave its initial station on any division, or a junction, or pass from double to single track, without order or clearance, and until it is ascertained, by asking the dispatcher, whether all trains due have arrived or departed, mentioning particularly the last train due, giving the train number."

Under this rule the company should require their conductors leaving Calistoga or Vallejo to call up the dispatcher and obtain necessary information to fill out their Clearance Card, Form 274. This should be made out in duplicate, copy of which the conductor should deliver to

the motorman. This was not done with train No. 5, leaving Calistoga, nor with train No. 6, leaving Vallejo. Had the officers of the company required this rule to be followed to the letter, Conductor Richmond at Vallejo would have delivered a copy of this clearance to Motorman Hough. The following out of this practice might have resulted in Motorman Hough demanding the clearance from Conductor Richmond, with a result that Richmond, if he did overlook calling up the dispatcher, would have had his attention called to the matter. The motorman of train No. 5, leaving Calistoga, likewise did not receive the regular clearance card for the reason that the conductor is not required by the officers of the company to follow out Rule 203.

RULE 207. SET SWITCHES FOR OPPOSING TRAINS.

“At meeting points between trains, either by schedule or train order, should the train that is to occupy the main track arrive first, it will be the duty of the conductor of such train to promptly set the switch for the siding, so that the train to be met can take the siding with the least possible delay.”

It is a custom on this railway, not supported by written instructions or bulletin, for the first train arriving at a station where it is to meet an opposing train to take siding. This nullifies Rule 207 and makes it a dead letter. Unnecessary rules should be annulled by bulletin or should never have been placed in the Book of Rules.

RULE 215. INSTRUCTIONS IN WRITING.

“Messages or instructions respecting the movement of train or the conditions of track or bridges, must be in writing.”

The officers of the company violate this rule when they allow trains to leave terminals with a verbal clearance.

RULE 230. DELAYED TRAINS.

This rule provides that conductor of train must report to the dispatcher when ten minutes late.

Conductor of train No. 6 did not report at Vallejo when he became ten minutes late. It is evident that he was not properly instructed on this rule. It is also evident that Dispatcher O'Leary was unaware of this rule or he would have called for the conductor of train No. 6 after this train became ten minutes late.

RULE 250. TRAIN ORDERS.

Part of this rule reads:

“Train orders must be brief and clear, and in the prescribed form, when applicable.”

The Order No. 3 in question, which was put to train No. 5 at Collins read: “Train 6 will meet train 5 at Hatch.” The proper prescribed

form outlined in their Book of Rules for this order is as follows: No. 6 motor — will meet No. 5 motor — at Hatch. In putting out the order in question Dispatcher O'Leary violated Rule 250 in that he did not comply with the prescribed form. An examination of the train orders in the office at Napa developed the fact that this practice has been in effect for a long time and had not been corrected by the officers of the company.

RULE 253. DISPATCHER'S RECORD OF ORDERS.

Part of this rule follows:

“Each train order must be written in full by the dispatcher, in a book or record provided for the purpose, before or at the time of giving the order to the train crews.”

The dispatcher does not write his orders out in a book, but writes them out on train order blanks, filing the blank on a pin file in front of him. This can not be construed as complying with Rule 253 for the reason that filing the orders on a pin file is not sufficient record. It is quite possible for a dishonest dispatcher to change his record of orders when it is kept in this manner. Furthermore a dispatcher is liable to lose sight of orders which have not been fulfilled when they are filed in the manner described. If written in a book all orders which have not been fulfilled are before him where he can readily see them in case it is necessary to make a change in an existing order.

RULE 254. DESIGNATION OF TRAINS.

Part of this rule follows:

“Scheduled trains will be designated in train orders by their numbers, as ‘No. 10’ or ‘2d No. 10,’ adding motor numbers.”

This rule was not complied with in the handling of train Order No. 3, the date in question, for the reason that the dispatcher used train instead of number, and he likewise failed to add the motor number. This latter is important for the reason that it is the only manner in which train and motormen can properly identify opposing trains.

RULE 263. RIGHTS TO BE RESTRICTED FIRST.

“When trains running in opposite directions are to be moved toward each other by train orders, the train whose rights are to be restricted must first receive the order and the complete * * before the order is given to the train to be moved against it or toward it.”

Dispatcher O'Leary violated this rule by not first getting the conductor of train No. 6 on the telephone and giving him the order which had been given to train No. 5 before he completed the order to train

the motorman. This was not done with train No. 5, leaving Calistoga, nor with train No. 6, leaving Vallejo. Had the officers of the company required this rule to be followed to the letter, Conductor Richmond at Vallejo would have delivered a copy of this clearance to Motorman Hough. The following out of this practice might have resulted in Motorman Hough demanding the clearance from Conductor Richmond, with a result that Richmond, if he did overlook calling up the dispatcher, would have had his attention called to the matter. The motorman of train No. 5, leaving Calistoga, likewise did not receive the regular clearance card for the reason that the conductor is not required by the officers of the company to follow out Rule 203.

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“When trains running in opposite directions are to be moved toward each other by train orders, the train whose rights are to be restricted must first receive the order and the complete * * before the order is given to the train to be moved against it or toward it.”

Dispatcher O'Leary violated this rule by not first getting the conductor of train No. 6 on the telephone and giving him the order which had been given to train No. 5 before he completed the order to train

No. 5, which would allow train No. 5 to proceed beyond Collins on the rights of train No. 6. A violation of this rule is a procedure which has always been followed at Vallejo in handling this particular order with the full knowledge of the officers of the company. In this violation of Rule 268 lies the main cause of the accident.

RULE 275. FORM OF TRAIN ORDER BLANK.

The form of train order blank being used by this company is not the same blank that is outlined and described in their Book of Rules. The conductor of train No. 5 used an improper blank furnished by the company, which was not in accordance with the rules, in taking the order over the telephone at Collins. No instruction or bulletin is posted concerning the blank to explain its use.

RULE 277. FORM A. FIXING MEETING POINT FOR OPPOSING TRAINS.

This form A, under Rule 277, is the prescribed form which Dispatcher O'Leary should have used in putting out his order. This he failed to do as explained under the violation of a previous rule.

RULE 301. DUTIES OF DISPATCHERS.

"They will issue orders in the name of the Superintendent or other designated authority for the movement of trains; see that they are transmitted and recorded in the manner prescribed in the rules; keep a record showing the time of arrival and departure of trains at specified points and such other records as may be required, and record all important incidents which occur while on duty."

Dispatcher O'Leary failed to comply with this rule in that he did not transmit and record his orders in the manner prescribed in the rule.

It is apparent from the above violations of the rules, some of which had a direct relation to the causes of the accident, that the officers of the company, either through negligence or through incompetence, were not aware of the importance of the strict observance of the rules and the effect of strict observance of the rules upon the production of the resultant safety in the operation of trains on this high speed railway. These violations of the rules, which are outlined above as occurring in the operation of these two trains, could not occur on a railroad as small as this one without the full knowledge and approval of the superintendent of traffic and the general manager. These violations of the rules are general in the operation of all trains by this company.

This Commission's service inspector, Mr. Hugh Wilson, made an investigation as to this company's method of operation during the present month, and on the morning of the accident, previous to the notification, the following letter was sent to this company:

Engineering Department, File No. 107.

June 19, 1913.

Mr. M. McIntyre, General Manager, San Francisco, Napa and Calistoga Railway, Napa, California.

DEAR SIR:

The Commission's inspector of service recently visited your railroad, and has reported some conditions in connection with your operation which should be corrected to insure safety.

We wish to call your attention to section 42 of the Public Utilities Act, which gives the Commission jurisdiction in matters which pertain to safe operation of public utilities.

Investigation was made of your rules and methods of operation. You appear to have established as your working rules the general rules adopted by the American Street and Interurban Railway Transportation and Traffic Association. These rules are good, and will insure safe operation if they are observed and if they are, in the first place, carefully applied by the railroad company using them.

The following discrepancies were noted in their application on your line:

Standard time—You maintain no standard clocks; your clock which is maintained in the dispatcher's office at Napa is not carefully set daily, as it should be; you furthermore do not require a daily registration of the conditions of watches of motormen and conductors, as provided in Rule 80 of your Book of Rules.

Violation of Rule 250—Your dispatcher does not issue orders of prescribed form, as outlined in your Book of Rules. This rule is important in order that all receiving the orders may understand them alike.

Violation of Rule 253—Your train dispatcher does not keep a book record of his train orders issued. The same dispatcher should write his orders in a book provided for that purpose in the dispatcher's office, and in this book make proper record of the names of all who have received the order, the time and from what station the order was repeated.

Train register—You do not maintain train registers at points where they should be maintained in order that trainmen may properly check the arrival and departure of trains which affect their rights. This is particularly apparent at Limits. A register should be maintained at this point to assure trains approaching Napa that the short turn-around from Napa to Limits has been made.

At train register points your motorman should receive a check on the prescribed form from the conductor of train which affects his rights, or else the motorman should be required to personally check the register himself.

- It was noted that you adhere to the positive meeting points for trains at schedule meeting points indicated in the time tables. There is no objection to this feature of your operation, from a safety standpoint, but it would seem that you have an ideal condition on your railroad for the adoption of the principle of giving right of way to the superior direction trains. It would seem that this would

result in better service in case of trouble with your telephone line. It is not considered necessary for you to change this feature of your operation. However, you must be certain that trainmen make the meeting points positive in case of wire failure and interruption of service due to trains being late.

Will you consider these matters and advise the Commission what you can do to bring about a correction?

Yours very truly,

RAILROAD COMMISSION OF CALIFORNIA.

Records of the trainmen, motormen and dispatcher who were involved in the accident are as follows:

O'Leary, Edward J. Train dispatcher.

In service of S. F., N. & C. Railway, March 17, 1912, to December 15, 1912, as conductor. Resigned to take position with Standard Portland Cement Company as storekeeper. Returned to service as conductor January 16, 1913. Was appointed train dispatcher January 30, 1913, and employed as such at present date.

Previous employment.

1. April 7, 1902–July, 1908, yard clerk, Wabash Railroad Company, Chicago, Ill.

2. July, 1908–Nov., 1908, motorman, Chicago City Railway Co.

3. Nov., 1908–Dec., 1911, driver, Paris Linen Supply Co., Chicago.

4. Dec., 1911–Nov., 1912, driver, Standard Laundry Co., Chicago.

5. Dec. 16, 1912–Jan. 16, 1913, storekeeper for Standard Portland Cement Company, Napa, California.

Richmond, Horace Greeley. Conductor train 6.

In service of S. F., N. & C. Railway, May 11, 1913, to present date conductor (on extra list).

Previous employment.

1. Nov., 1904–March, 1907, conductor, Los Angeles Railroad, Los Angeles, Cal.

2. In business for self. Proprietor of summer resort at Middletown, Lake County, California.

Hough, Eugene Casley. Motorman train 6.

In service of S. F., N. & C. Railway, June 26, 1905, to June 19, 1913, as motorman.

Previous employment.

1. California Street Railway, San Francisco, California.

2. Pacific Electric, Los Angeles, California.

Left for advancement. Dates unknown.

Patten, Bert Edwin. Conductor train 5.

In service of S. F., N. & C. Railway, March 1, 1909, to present date, conductor.

Previous employment.

1. June 1, 1900—June 1, 1907, conductor, United Railways of San Francisco.

2. June 1, 1907—Jan. 16, 1908, uncertain.

3. Jan. 16, 1908—March 1, 1908, unemployed.

4. March 1, 1908—March 1, 1909, attendant for insane patient, Lake County, California.

Juarez, William Joseph. Motorman train 5.

In service of S. F., N. & C. Railway, Nov. 30, 1907, to present date, motorman.

Previous employment.

1. Motorman, Market Street Railway, San Francisco, California.

2. Motorman, United Railways, San Francisco, California. Dates unknown.

It is apparent from the above records that Dispatcher O'Leary did not have sufficient or proper experience to act in the capacity of dispatcher. From facts brought out during the inquest, and also from previous examination of him by the Commission's inspector, it is apparent that he was not at all familiar with the rules of the company. He admitted that he had never read the Book of Rules through entirely. Neither was he properly examined by his superiors as to his fitness for the position of dispatcher. This may be said to be another direct cause of the accident and for which Superintendent of Traffic Harrington and General Manager MacIntyre were responsible. On a road of 41.2 miles, with so few men employed, a resident general manager has opportunity to be familiar with and know the qualifications of each man.

It developed at the inquest upon examination of Mr. Harrington that Richmond was required, prior to being regularly used as a conductor, to act as conductor under an experienced conductor for three weeks. Then when he was "O. K'd." by the experienced conductor he was allowed to fill the position of conductor without being thoroughly examined. It does not appear that Richmond had ever had other experience in actual handling of train orders. It is apparent, then, that this company is allowing men to occupy the position of conductor who are not qualified. Richmond stated that he had had considerable experience on eastern steam railroads, but this would not excuse his officers from their failure

to examine him and know that he was capable before allowing him to occupy the position.

CONCLUSIONS.

Circumstantial evidence indicates that Conductor Richmond (train 6) failed to call for his clearance before leaving Vallejo as required by custom of the company. Motorman Hough failed to obtain a copy of this clearance or verbal confirmation of it from the conductor before starting his train. Dispatcher O'Leary violated the rules in allowing an inferior train to move before restricting the superior train. The officers of the company were negligent in their duties in allowing single track high speed operation to be conducted without maintaining the proper observation of the rules on the part of all employees.

It is necessary to make mention of the fact that had the railroad been equipped with automatic block signals the accident would have been prevented, assuming that sufficient discipline was maintained to obtain observance of signals.

CAUSE OF THE ACCIDENT.

Direct—

(1) Failure of Conductor Richmond to call the dispatcher for a clearance before leaving Vallejo with train.

(2) Failure of Motorman Hough to obtain the clearance from his conductor.

(3) Dispatcher O'Leary's violation of the rule requiring him to first restrict the superior train before moving the inferior train.

(4) Failure of the officers of the company to correct the above violations of the rules which had been occurring daily and had become an established practice.

Indirect—

General violation of the rules, which ultimately results in such disasters as this one.

Recommendations—

The company should require its officers to operate the railroad under safe rules. They should examine men as to their fitness before allowing them to occupy positions that involve the handling of trains and train orders and should employ only competent men in such positions who are qualified to fill them. They should know that all rules are being observed.

Respectfully submitted.

W. C. EARLE, Chief Engineer.

DECISION No. 805.

CITY OF SANTA PAULA

vs.

SANTA CLARA WATER AND IRRIGATION COMPANY.

Case No. 349.

Decided July 23, 1913.

Complainant alleges defendant maintains an open water ditch which is unsanitary and a menace to public health. *Held*, complaint dismissed, as city and not the Commission has jurisdiction to grant relief asked.

Arthur H. Blanchard and Don C. Bowker, for the City of Santa Paula.
E. M. Selby, of Hiatt & Selby, for Santa Clara Water and Irrigation Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The city of Santa Paula brought this complaint for the purpose of compelling the Santa Clara Water and Irrigation Company to discontinue and abandon the use of an open water ditch running through the city from the eastern boundary to the western boundary thereof, and to substitute a buried pipe line in the place of this open ditch.

The complaint alleges in effect that the defendant permits Johnson grass to grow on the banks of this ditch, and that the seed from this grass is carried to neighboring farms to the injury of the latter; that the ditch is a menace to public health and safety because it runs close to numerous barnyards and outhouses from which offensive matter drains into the ditch, and that during certain portions of the summer season the ditch is allowed to stand stagnant and to breed mosquitos.

From the evidence introduced at the hearing, it appeared that the company was at present taking active steps to eliminate the Johnson grass from this ditch and that practically all of this grass had been removed. I do not consider it necessary, therefore, to give any further attention to the allegation concerning the Johnson grass.

The defendant has objected to the consideration by the Commission of the allegation in the complaint to the effect that the open ditch, as now maintained, is offensive to the public health and safety of the city. The defendant contends that the city itself has the power to regulate these matters, and to abate nuisances of this character when they are found to exist. The defendant has moved that the complaint be dis-

missed, because of lack of jurisdiction to consider the subject matter thereof. I shall now direct my attention to the consideration of this motion.

The Public Utilities Act of this State, which defines the jurisdiction of this Commission, was passed by the legislature under the authority conferred upon the legislature by section 23 of article XII of the constitution of this State, as amended on October 10, 1911. After defining certain classes of public utilities and giving to the legislature the power to confer upon the Railroad Commission authority with reference to such utilities, this section of the constitution provides that from and after the passage by the legislature of laws conferring powers upon the Railroad Commission respecting public utilities, all powers over such public utilities theretofore vested in certain other public bodies shall cease and the same be exercised by the Railroad Commission. The section then states a very important proviso, to the effect that the powers of control over public utilities vested in incorporated cities and towns shall not be transferred to the Railroad Commission until such cities or towns, at an election to be held for that purpose, shall have decided that the powers possessed by the municipality shall be transferred to the Railroad Commission.

This Commission has taken the position that, under this constitutional provision, the cities and towns of the State retain all powers respecting public utilities which they had on March 23, 1912, being the effective date of the Public Utilities Act. On that day section 11 of article XI of the constitution of this State was in full force and effect, and provided:

“Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.”

The city of Santa Paula has never transferred to this Commission the powers which it holds by virtue of this section of the constitution. The regulation of the defendant company's ditch within the city of Santa Paula, with a view to protecting the health and safety of the inhabitants of the city, is clearly a police, or sanitary regulation. It is my opinion, therefore, that the power of regulation in the instance set forth in this complaint is vested exclusively in the municipal authorities of the city of Santa Paula, and not in this Commission. I believe that the objections of the defendant to the jurisdiction of this Commission are well taken, and I submit herewith the following order:

ORDER.

The complaint in this proceeding having been filed and a copy thereof having been sent to the defendant company, and the latter company having moved that the complaint be dismissed on the ground that this

Commission does not have the jurisdiction to consider the subject-matter of the same, and the question of jurisdiction having been argued before the Commission,

It is hereby ordered that the complaint in the above entitled proceeding be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of July, 1913.

DECISION No. 806.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS, SANTA CLARA COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC HIGHWAY AT GRADE ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY NEAR THE CITY OF PALO ALTO.

Application No. 352.

Decided July 23, 1913.

Applicant asks permission to construct a grade crossing across the tracks of the Southern Pacific Company in the city of Palo Alto.

Held. That owing to certain conditions a grade crossing would be extremely dangerous at this point. Applicant permitted to construct a subway under certain conditions.

Norman E. Malcolm, for Santa Clara County and Palo Alto Chamber of Commerce.

H. C. Booth, for Southern Pacific Company.

W. H. H. Hart, for Loretta B. Hart.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

On January 9, 1913, the Board of Supervisors of Santa Clara County, California, filed with the Commission an application for permission to construct a public highway at grade across the tracks of Southern Pacific Company on the west side of and adjoining the city of Palo Alto in said county, said highway to be an extension of Palo Alto

to examine him and know that he was capable before allowing him to occupy the position.

CONCLUSIONS.

Circumstantial evidence indicates that Conductor Richmond (train 6) failed to call for his clearance before leaving Vallejo as required by custom of the company. Motorman Hough failed to obtain a copy of this clearance or verbal confirmation of it from the conductor before starting his train. Dispatcher O'Leary violated the rules in allowing an inferior train to move before restricting the superior train. The officers of the company were negligent in their duties in allowing single track high speed operation to be conducted without maintaining the proper observation of the rules on the part of all employees.

It is necessary to make mention of the fact that had the railroad been equipped with automatic block signals the accident would have been prevented, assuming that sufficient discipline was maintained to obtain observance of signals.

CAUSE OF THE ACCIDENT.

Direct—

(1) Failure of Conductor Richmond to call the dispatcher for a clearance before leaving Vallejo with train.

(2) Failure of Motorman Hough to obtain the clearance from his conductor.

(3) Dispatcher O'Leary's violation of the rule requiring him to first restrict the superior train before moving the inferior train.

(4) Failure of the officers of the company to correct the above violations of the rules which had been occurring daily and had become an established practice.

Indirect—

General violation of the rules, which ultimately results in such disasters as this one.

Recommendations—

The company should require its officers to operate the railroad under safe rules. They should examine men as to their fitness before allowing them to occupy positions that involve the handling of trains and train orders and should employ only competent men in such positions who are qualified to fill them. They should *know* that all rules are being observed.

Respectfully submitted.

W. C. EARLE, Chief Engineer.

DECISION No. 805.

CITY OF SANTA PAULA

vs.

SANTA CLARA WATER AND IRRIGATION COMPANY.

Case No. 349.

Decided July 23, 1913.

Complainant alleges defendant maintains an open water ditch which is unsanitary and a menace to public health. *Held*, complaint dismissed, as city and not the Commission has jurisdiction to grant relief asked.

Arthur H. Blanchard and Don C. Bowker, for the City of Santa Paula.
E. M. Selby, of Hiatt & Selby, for Santa Clara Water and Irrigation Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The city of Santa Paula brought this complaint for the purpose of compelling the Santa Clara Water and Irrigation Company to discontinue and abandon the use of an open water ditch running through the city from the eastern boundary to the western boundary thereof, and to substitute a buried pipe line in the place of this open ditch.

The complaint alleges in effect that the defendant permits Johnson grass to grow on the banks of this ditch, and that the seed from this grass is carried to neighboring farms to the injury of the latter; that the ditch is a menace to public health and safety because it runs close to numerous barnyards and outhouses from which offensive matter drains into the ditch, and that during certain portions of the summer season the ditch is allowed to stand stagnant and to breed mosquitos.

From the evidence introduced at the hearing, it appeared that the company was at present taking active steps to eliminate the Johnson grass from this ditch and that practically all of this grass had been removed. I do not consider it necessary, therefore, to give any further attention to the allegation concerning the Johnson grass.

The defendant has objected to the consideration by the Commission of the allegation in the complaint to the effect that the open ditch, as now maintained, is offensive to the public health and safety of the city. The defendant contends that the city itself has the power to regulate these matters, and to abate nuisances of this character when they are found to exist. The defendant has moved that the complaint be dis-

missed, because of lack of jurisdiction to consider the subject matter thereof. I shall now direct my attention to the consideration of this motion.

The Public Utilities Act of this State, which defines the jurisdiction of this Commission, was passed by the legislature under the authority conferred upon the legislature by section 23 of article XII of the constitution of this State, as amended on October 10, 1911. After defining certain classes of public utilities and giving to the legislature the power to confer upon the Railroad Commission authority with reference to such utilities, this section of the constitution provides that from and after the passage by the legislature of laws conferring powers upon the Railroad Commission respecting public utilities, all powers over such public utilities theretofore vested in certain other public bodies shall cease and the same be exercised by the Railroad Commission. The section then states a very important proviso, to the effect that the powers of control over public utilities vested in incorporated cities and towns shall not be transferred to the Railroad Commission until such cities or towns, at an election to be held for that purpose, shall have decided that the powers possessed by the municipality shall be transferred to the Railroad Commission.

This Commission has taken the position that, under this constitutional provision, the cities and towns of the State retain all powers respecting public utilities which they had on March 23, 1912, being the effective date of the Public Utilities Act. On that day section 11 of article XI of the constitution of this State was in full force and effect, and provided:

“Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.”

The city of Santa Paula has never transferred to this Commission the powers which it holds by virtue of this section of the constitution. The regulation of the defendant company's ditch within the city of Santa Paula, with a view to protecting the health and safety of the inhabitants of the city, is clearly a police, or sanitary regulation. It is my opinion, therefore, that the power of regulation in the instance set forth in this complaint is vested exclusively in the municipal authorities of the city of Santa Paula, and not in this Commission. I believe that the objections of the defendant to the jurisdiction of this Commission are well taken, and I submit herewith the following order:

ORDER.

The complaint in this proceeding having been filed and a copy thereof having been sent to the defendant company, and the latter company having moved that the complaint be dismissed on the ground that this

Commission does not have the jurisdiction to consider the subject-matter of the same, and the question of jurisdiction having been argued before the Commission,

It is hereby ordered that the complaint in the above entitled proceeding be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of July, 1913.

DECISION No. 806.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS, SANTA CLARA COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC HIGHWAY AT GRADE ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY NEAR THE CITY OF PALO ALTO.

Application No. 352.

Decided July 23, 1913.

Applicant asks permission to construct a grade crossing across the tracks of the Southern Pacific Company in the city of Palo Alto.

Held. That owing to certain conditions a grade crossing would be extremely dangerous at this point. Applicant permitted to construct a subway under certain conditions.

Norman E. Malcolm, for Santa Clara County and Palo Alto Chamber of Commerce.

H. C. Booth, for Southern Pacific Company.

W. H. H. Hart, for Loretta B. Hart.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

On January 9, 1913, the Board of Supervisors of Santa Clara County, California, filed with the Commission an application for permission to construct a public highway at grade across the tracks of Southern Pacific Company on the west side of and adjoining the city of Palo Alto in said county, said highway to be an extension of Palo Alto

avenue of said city. The center line of this proposed public highway as described in the petition is as follows:

“Beginning at a point on the southerly line of Alma street, which point is south 73 deg. 53 min. west 61.48 feet from a point in the prolongation of the northerly line of Alma street, 201.36 feet from the intersection of the northerly line of Alma street with the southerly line of Palo Alto avenue; thence south 73 deg. 53 min. west 172.08 feet to a point on the southerly line of the Southern Pacific Railroad Company's right of way; thence continuing on same line 73 deg. 53 min. west 303.9 feet to a point on the San Francisco road. Being a strip of land of the uniform width of 60 feet and 30 feet on each side of the above described line.”

The application states generally that a separation of grades is unreasonable and its advantages are not sufficient to warrant the expenditure; also that the physical features of the crossing and surroundings are favorable to a grade crossing.

A hearing was held upon the application at San Jose on March 24, 1913, at which all interested parties were represented and testimony taken concerning the proposed crossing.

Southern Pacific Company contended that it was reasonable and practicable to construct a subgrade crossing under its tracks to accommodate the public highway prayed for, either at Palo Alto avenue or at Hawthorne avenue, which is the next parallel street abutting on the railroad, about four hundred (400) feet south of Palo Alto avenue. This company submitted an estimate of the cost of a subway, or undergrade crossing, equipped with a permanent steel and concrete overhead bridge, and roadway paved with first-class macadam, including concrete sidewalks and curb, aggregating \$18,526.50. The estimated cost of the subway, including the overhead bridge, within the limits of right of way of Southern Pacific Company, was \$11,649.50. This cost the Southern Pacific Company agreed to bear if the city of Palo Alto on the east side of its right of way would stand the cost of the east approach to the subway, estimated to be \$3,576.50, and also if the county of Santa Clara would stand the estimated cost of the west approach to the subway, on the west side of its right of way, estimated to be \$3,300.50.

These figures were, however, for a subway at Hawthorne avenue. The cost of a similar subway at Palo Alto avenue on the line of the proposed railway as laid out, was estimated to be but little in excess, if any, of the above statement.

On March 29, 1913, there was filed with the Commission a petition from the city of Palo Alto, and also a protest and petition from Loretta B. Hart, a resident and owner of property in Palo Alto adjoining the proposed crossing, protesting against any consideration of a

subway for the proposed public highway under the tracks of the Southern Pacific Company, and insisting that the Commission grant the application for the grade crossing.

A rehearing was held upon the application and the matters contained in the petitions before the Commission at San Francisco on April 23, 1913, at which all interested parties were represented. Testimony was introduced tending to show in effect that a subway or undergrade crossing was neither desired nor considered advisable by the citizens of Palo Alto, and the owners of certain adjoining property in the city. Southern Pacific Company again maintained that a grade crossing would be very dangerous and hazardous to the public traveling on the highway, and reiterated its previous offer to stand such expense as might be necessary for the construction of an undergrade crossing within the limits of its own right of way.

On May 20, 1913, informal conference was held before the Commission at Palo Alto. At this meeting it was shown that a subway or undergrade crossing at Palo Alto avenue was feasible and practicable, and that a grade crossing at either Palo Alto avenue or Hawthorne avenue would be very dangerous and hazardous to the public. On June 28th and July 11, 1913, further informal conferences were held before the Commission at San Francisco, at which all interested parties were represented. At the last conference Southern Pacific Company submitted plans and specifications for a subway or an undergrade crossing to be located in the vicinity of Palo Alto avenue. These plans and specifications were acceptable to all interested parties. Southern Pacific Company at this conference also submitted an estimate of the cost of said subway or undergrade crossing, which was to be equipped with a permanent steel and concrete overhead bridge and roadway paved with first-class macadam, including a concrete sidewalk and curb, aggregating \$26,965.00. The estimated cost to Southern Pacific Company is \$13,440.00. This is for the subway, including the overhead bridge, from the easterly right of way limits of Southern Pacific Company to a line parallel with Southern Pacific Company's westerly right of way line, which is a distance of approximately forty-five (45) feet easterly from aforesaid Southern Pacific Company's westerly right of way line, which line would be a line connecting the extreme westerly points of the subway wing walls. This cost the Southern Pacific Company agreed to bear if the city of Palo Alto on the east side of its right of way would pay for the estimated cost of the east approach to the subway, which was estimated to be \$9,000.00, and also if the county of Santa Clara would pay for the estimated cost of the west approach to the subway up to the west wing walls of the subway, which was estimated to be \$4,525.00.

After giving full consideration to the matters contained in the application, to the testimony submitted, and to the petitions and protests filed, I am of the opinion that it is entirely reasonable and practicable to avoid a grade crossing of the proposed public highway with the tracks of the Southern Pacific Company in the vicinity of Palo Alto avenue, city of Palo Alto, Santa Clara County, California, at a cost based upon the estimate submitted by the Southern Pacific Company last hereinbefore mentioned, and that it is entirely reasonable to the city of Palo Alto and to the county of Santa Clara, and a cost which said city and county can reasonably be required to participate in.

The testimony shows that a grade crossing at either Palo Alto avenue or Hawthorne avenue is obscured in several directions by trees and brush and would be extremely dangerous for highway traffic. The Southern Pacific Company operates upwards of seventy trains per day over its double main line tracks at this point. The grade crossing, if permitted, due to local conditions, would be unusually hazardous, and its danger, so far as the traveling public is concerned, would continually increase from year to year, as both the railroad and the highway traffic increases.

What a few years ago were deemed unsurmountable obstacles to an undergrade or overgrade crossing are now treated as only engineering difficulties, which skill and capital can generally overcome. It is, therefore, the settled policy of this Commission when one railroad desires to cross another, or where it is desired that the highway cross a railroad, or *vice versa*, to require such crossing to be made by a subway or overhead crossing whenever and wherever it is practicable and feasible so to do.

The city of Palo Alto and the county of Santa Clara, in my opinion, can reasonably be required to participate in the expense of constructing an undergrade crossing to the extent hereinbefore proposed. I do not find that public necessity demands a temporary grade crossing at the point selected, as such highway traffic as would use this crossing will not be materially inconvenienced by going to the present grade crossing at University avenue, as is now the case, until the completion of the subway.

I therefore submit the following form of order:

ORDER.

The Board of Supervisors of Santa Clara County, California, having on January 9, 1913, filed with the Commission an application for permission to construct a public highway crossing at grade across the tracks of the Southern Pacific Company at a point near the west end of Palo Alto avenue, in the city of Palo Alto, Santa Clara County, California, as shown by the map attached to the application, and a

hearing having been held by the Commission upon the matter at San Jose, California, on March 24, 1913, and a rehearing at San Francisco on April 23, 1913, at which all parties interested, including the city of Palo Alto and certain protesting adjoining property owners, were duly represented, and it appearing to the Commission that it is practicable to avoid a grade crossing of the Southern Pacific Company's tracks at the proposed point of crossing by constructing a subway, or undergrade crossing; and it further appearing that Southern Pacific Company has agreed to bear the greater part of the cost of such undergrade crossing, being that portion of the cost attaching to the construction of the subway under its tracks and between the easterly limits of its right of way and the extreme westerly limits of the subway wing walls, provided the city of Palo Alto will bear the cost of constructing the approach to said subway on the east side within its limits, and also provided the county of Santa Clara will stand the cost of constructing the west approach to the subway up to the westerly limits of the subway wing walls, and it further appearing that the application as presented should be denied, but that an order should be issued approving the construction of a subway, or undergrade crossing, for the proposed highway, at or near the point of crossing proposed, as hereinafter provided,

It is hereby ordered that permission be hereby granted to the Board of Supervisors of Santa Clara County, California, the Southern Pacific Company and the city of Palo Alto, Santa Clara County, California, to construct a subway, or undergrade crossing, under the tracks of the Southern Pacific Company at or near the west end of Palo Alto avenue in said city of Palo Alto, as shown by the map and plans filed by Southern Pacific Company on July 11, 1913, and that said map and plans be and are hereby approved and that the subway shall be constructed upon the following terms and conditions, and not otherwise, to wit:

(1) The subway shall be constructed to conform to specifications contained in General Order No. 26 of this Commission.

(2) The subway shall be constructed in accordance with plans and specifications prepared by and mutually satisfactory to the Southern Pacific Company, the city of Palo Alto and the county of Santa Clara, which plans and specifications were filed by Southern Pacific Company on July 11, 1913, and are approved by this Commission.

(3) The cost of constructing and maintaining the subway shall be apportioned between the parties as follows:

(a) Under the tracks and from the easterly limits of the right of way of the Southern Pacific Company to the westerly limits of the wing walls of the subway, including the necessary overhead bridge, retaining walls, paving, sidewalks, sump, and drainage pipe for remov-

ing water from the subway, shall be borne by the Southern Pacific Company;

(b) The east approach to the subway within the limits of the city of Palo Alto, including the necessary grading, paving, retaining walls, etc., shall be borne by the city of Palo Alto;

(c) The west approach to the subway up to the westerly limits of the wing walls of the subway, including grading, paving, etc., shall be borne by the county of Santa Clara.

(4) The subway shall be completed and ready for use within eighteen (18) months after the date of this order.

(5) Should the city of Palo Alto and the county of Santa Clara fail or refuse to join in the construction of said subway hereinbefore provided for, and fail or refuse to share in the cost thereof, as hereinbefore specified, then, and in that case, this order becomes null and void and the Southern Pacific Company is relieved from the provisions of this order directing its share in the cost of the said subway and the application for the crossing prayed for herein will be dismissed by the Commission.

(6) This order shall be without prejudice to the right of the Commission to hereafter make such further orders relative to the construction, maintenance, operation, and protection of the public highway crossing hereby authorized, as in the opinion of the Commission public convenience and necessity demand.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 23d day of July, 1913.

DECISION No. 807.

MEXICO AND SAN DIEGO RAILWAY COMPANY
vs.
SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY.

Case No. 401.

Decided July 23, 1913.

Complainant petitions Commission to compel defendant to operate jointly a portion of defendant's railway and to establish rates for said service.

Held. That complainant's line was built primarily to promote real estate operations, and that the Commission will not permit any attempt to evade its duty to the public.

Held. That complainant be permitted to operate over a certain portion of defendant's line, subject to certain conditions.

Held. Complaint in all other respects dismissed.

George J. Leovy and Leovy & Leovy, for Complainant.

H. L. Titus and Read G. Dilworth for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an action to compel the defendant railway company either to permit the complainant railway company to operate jointly with the defendant a portion of the defendant's line of railway or to compel the defendant to operate for passenger as well as freight traffic said portion of its line of railway, and also to establish a through route and to fix rates in connection therewith over the lines of the parties hereto, as will hereinafter appear in greater detail.

The complaint in this proceeding was filed on May 29, 1913. It alleges, in effect, that both complainant and defendant are California corporations engaged in the business of common carriers of freight and passengers: that Coronado Railroad Company was a railway corporation operating a line of steam railway for the carriage of freight and passengers between the city of San Diego and the city of Coronado through what is known as South San Diego Company's Addition to South San Diego, near what is known as the "Head of the Bay" region, in San Diego County; that the defendant is the successor in interest of the Coronado Railroad Company; that complainant has constructed and is now operating its line of railway from a point in Imperial Beach, in San Diego County, to what is known as its Ninth Street Station, in South San Diego, at which point it has a physical connection with the track of the defendant, formerly owned and operated by the Coronado Railroad Company; that defendant operates by steam that portion of the line of railway formerly owned by the Coronado Railroad Company which lies between the foot of Ninth street, in San Diego, and what is known as the National City and Otay Junction, about one mile east of complainant's said Ninth Street Station, in south San Diego, and thence over another portion of its line of railway to the town of Tia Juana, on the Mexican border, and that the portion of the Coronado Railroad Company's line of railway which lies between said National City and Otay Junction and the city of Coronado, and with which complainant has its physical connection, is operated for freight purposes only; that persons desiring to travel to and from Imperial Beach must either walk a distance of about one mile from complainant's Ninth Street Station to said National City and Otay Junction to take defendant's trains or travel by boat to and from the city of San Diego; that the boat service is inadequate and unsatisfactory; that Imperial

Beach and vicinity are rapidly growing in population; and that defendant has refused complainant's request, both as to a joint operation of said portion of defendant's line of railway lying between the National City and Otay Junction and complainant's said Ninth Street Station, and for the installation by defendant itself of passenger service between said points. Then follow allegations with reference to the freight and passenger rates of both parties. The complainant then asks either that defendant permit the joint operation of its said track between National City and Otay Junction and defendant's said Ninth Street Station in South San Diego, or that defendant be compelled to resume the operation of said line of track for passenger as well as for freight service. The complainant also asks that defendant be compelled to extend the same rate per passenger per mile over that portion of defendant's road as to which operation was requested as now exists over defendant's line of railway between the foot of Sixth street, in San Diego, and defendant's Twenty-fourth Street Station, in National City.

On June 23, 1913, defendant filed its answer. In its answer defendant alleges, in effect, that the portion of its line of railway formerly owned by the Coronado Railroad Company, lying between National City and Otay Junction and the city of Coronado and passing through South San Diego, is used for the carriage of freight only; that the territory included between said junction and the city of Coronado is sparsely populated and that the population has not materially increased in the last twenty years, so that its line of railway could not be operated between said points for the carriage of passengers without considerable loss; that passenger traffic on said line was abandoned many years ago for the reason that it could not be made to pay the cost of operation; that the freight carried on this portion of its line of railway consists mostly of rock and other material used in the construction of streets and a seawall in the city of Coronado; that the locality known as Imperial Beach is sparsely populated and that there has been but small increase in its population during the last two years; that the Mexico and San Diego Railway was built and promoted by one E. S. Babcock for the purpose of exploiting real estate owned by said Babcock at Imperial Beach; that the passenger traffic proposed to be delivered by complainant to the defendant will be so small that the revenue therefrom will not for a number of years, if ever, pay actual cost of operating cars on defendant's line of railway required for the purpose of carrying passengers between complainant's Ninth Street Station, in San Diego, and National City and Otay Junction, and that there is not sufficient public necessity to require the said operation for passengers; that complainant by constructing one additional mile of track from its said Ninth Street Station, in South San Diego, to the National City and Otay Junction, could connect directly with defendant's line

of railway operated both for passengers and freight, between San Diego and Tia Juana; that the passenger rate in effect on the old Coronado Belt Line while it was being operated for passenger traffic many years ago was forty-five cents between San Diego and South San Diego; and that the passenger rate between San Diego and defendant's Twenty-fourth Street Station, in National City, was put into effect under peculiar conditions and can not fairly be used as a basis for the establishment of rates to points beyond said station. Defendant further raises the point that the tracks and equipment of the old Coronado Belt Line between the National City and Otay Junction and Coronado are upon private right of way, and that no part of same is constructed or laid on, over or under any street or highway, except such parts thereof as cross streets which intersect it, and that any joint use of said tracks with any other railroad would result in irreparable injury, and that under section 41 of the Public Utilities Act, this Commission has no jurisdiction to compel a joint operation of these tracks or any portion thereof by the defendant and any other railway company.

The hearing in this case was held in the city of San Diego on July 5, 1913. The defendant waived its point with reference to the jurisdiction of the Commission and both sides submitted fully to the Commission's jurisdiction and requested the Commission to decide all points at issue.

It appears from the evidence that the complainant has constructed its line of railway from a station at Ninth street, in South San Diego, at which point a physical connection exists with the track of the old Coronado Belt Line, a distance of about 2.3 miles in a general southerly and southwesterly direction to Imperial Beach, on the Pacific Ocean, a few miles north from the Mexican boundary line; that said line of railway is a single-track line and is being operated by electric storage battery cars; that the purpose of constructing this line of railway was primarily to promote the sale of lands in Imperial Beach, owned or controlled by Mr. E. S. Babcock, who is the chief owner of the Mexico and San Diego Railway Company, and to serve such persons as may desire to locate at Imperial Beach; that persons desiring to travel between San Diego and Imperial Beach must now either use gasoline launches or other water craft, between San Diego and the landing near complainant's Ninth Street Station, in South San Diego, or walk a distance of about a mile between said station and defendant's National City and Otay Junction; that travel by boat is uncertain and unsatisfactory; that in order to traverse the distance between complainant's said Ninth Street Station and defendant's said National City and Otay Junction by rail it will be necessary either to have complainant secure the right to the joint operation of defendant's line of railway between

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said points or to have the defendant itself operate this line for passenger business, or to have complainant build its own line of railway between said two points; that for many years defendant's line of railway between said two points has been operated for freight alone, except for an occasional passenger excursion around the bay between San Diego and Coronado; that defendant operates several steam trains each day on regular passenger and freight schedule between San Diego and Tia Juana, through National City and Otay Junction; that if a connection between the lines of the two railway companies were made at National City and Otay Junction, passengers between Imperial Beach and points north of said junction could use the lines of complainant between National City and Otay Junction and points south thereof and the lines of the defendant between said junction and points north thereof; and that the land lying between the Ninth Street Station in South San Diego and National City and Otay Junction is owned or controlled by E. S. Babcock, and that the construction of a track between said points, exclusive of right of way, would cost \$7,000.00 or over.

There was considerable controversy with reference to the population of Imperial Beach and South San Diego, both of which localities would be inconvenienced by the establishment of through rail transportation. It appears that the population of Imperial Beach is largely transient and a considerable proportion of the people living there come to Imperial Beach only over week-ends or during certain seasons of the year. Mr. E. W. Peterson, who manages a water system in this locality, testified that in Imperial Beach there are 50 water taps in use and 15 not in use, and that there is an average of two or three people to the tap. He also testified that in South San Diego there are 23 taps in use and 10 not in use. It thus appears from his testimony that in Imperial Beach and South San Diego together there are 73 water taps in use and 23 not in use. Mr. David Dissinger, who is the postmaster at Imperial Beach and has a store there, testified that Imperial Beach has a population of 75 persons, and that of some 75 or 80 houses in the locality some 60 are either occupied or have furniture in them.

Mr. R. B. Talbot, the complainant's superintendent, testified that between May 18th and 31st, inclusive, the complainant's line of railway carried 405 passengers, or an average of 29 per day. During the month of June 690 passengers were carried, or an average of 23 per day. The electric storage battery cars used have a capacity of 28 passengers. The fare is 5 cents each way. The complainant has been making five round trips each way per day between its Ninth Street Station, in South San Diego, and Imperial Beach. It is evident that the traffic on complainant's line of railway has been very small, and there is considerable doubt whether, at the present time, the traffic pays

even operating expenses. Rail service between San Diego and the "Head of the Bay" region would no doubt result in increased population and a larger revenue on complainant's line of railway.

After the hearing had proceeded to some extent, the defendant presented to the Commission copy of a letter dated July 1, 1913, to the attorney for the complainant, in which letter the defendant offered to give to the complainant trackage rights on defendant's line of railway between National City and Otay Junction and complainant's Ninth Street Station, in South San Diego, until such time as the San Diego and Southeastern Railway Company should extend its passenger service to South San Diego, on the following terms and conditions:

1. That the trackage charge to cover the use of track by cars of the Mexico and San Diego Railway Company should be 25 cents per car mile.

2. That one half of the cost of installation and maintenance of special telephone service required in connection with the joint use of the track should be paid by the Mexico and San Diego Railway Company.

3. That the running time schedule of the cars of the Mexico and San Diego Railway Company over said track of the San Diego and Southeastern Railway Company should be approved by the superintendent or general superintendent of the San Diego and Southeastern Railway Company, and that no trips other than those provided in the schedule should be made by the Mexico and San Diego Railway Company except under the orders of the superintendent or train dispatcher of the San Diego and Southeastern Railway Company.

4. That Mexico and San Diego Railway Company should hold the San Diego and Southeastern Railway Company harmless in the event of claim for any accident occurring in the operation of the cars of the Mexico and San Diego Railway Company over the tracks of the San Diego and Southeastern Railway Company and should provide a suitable bond to indemnify the San Diego and Southeastern Railway Company against any such claims.

5. That if a through route between points on the Mexico and San Diego Railway Company to points on the San Diego and Southeastern Railway Company be contemplated, the San Diego and Southeastern Railway Company should not be required to accept as its share less than the regular schedule rates between points on its line from time to time established.

The terms of this stipulation were satisfactory to the complainant, except those relating to the bond, the rental and the rates. Both parties submitted these matters to the Commission and requested the Commission to pass on them. I shall now consider them somewhat more in detail, in so far as necessary.

(1) *The bond.*

The San Diego and Southeastern Railway Company asks that the Mexico and San Diego Railway Company give to it a bond so as to hold the company harmless in the event of any claims from accidents occurring in the operation of the cars of the Mexico and San Diego Railway Company over the tracks of the San Diego and Southeastern Railway Company. Both sides agreed that a bond should be given but they disagreed with reference to the amount thereof. The Mexico and San Diego Railway Company contends that \$10,000.00 would be sufficient, while the San Diego and Southeastern Railway Company urges that the amount should be not less than \$50,000.00. After a careful consideration of the question, I have reached the conclusion that the amount of the bond should be \$25,000.00. The bond may either be a surety bond or a personal bond, satisfactory to the San Diego and Southeastern Railway Company. If a personal bond is offered and the parties can not agree, the matter should be submitted to this Commission.

(2) *Track rent.*

The San Diego and Southeastern Railway Company contended that the trackage charge should be 25 cents per car mile. As the distance is about 1.1 miles, and as the Mexico and San Diego Railway Company intends to run about five round-trips per day, the charge would be about \$2.75 per day. The San Diego and Southeastern Railway Company suggested this figure for the reason that it was the figure in effect under a similar prior arrangement with Mr. E. W. Peterson, but expressed its willingness to leave the matter entirely with the Commission. The Commission accordingly asked its engineering department to prepare a report as to the fair charge. The department made a careful investigation into the matter and reported that a charge of \$3.00 per day would be fair, on the assumption that the property was entirely new and that it would be used solely by the Mexico and San Diego Railway Company. As the property was constructed many years ago and has been subject to considerable depreciation, and as it will also be used by the San Diego and Southeastern Railway Company for freight service, and as the wear and tear resulting from the complainant's light storage battery cars will not be considerable, I have reached the conclusion that a fair rental to be paid will be the sum of \$1.50 per day, irrespective of the number of trips run by the complainant.

(3) *Rates.*

Complainant does not question the defendant's local one-way passenger fare of 25 cents between San Diego and National City and Otay Junction, or its 25-ride sixty-day family commutation rate of \$4.50

between said points. Complainant, however, asks for the establishment of two new through rates, one being a 60-ride thirty-day individual commutation book rate of \$11.28 between Imperial Beach and San Diego, of which amount the defendant would receive \$8.78, and the other being a local round-trip rate between Imperial Beach and San Diego of 50 cents, of which amount the defendant would receive 40 cents. The defendant's present local round-trip rate between San Diego and National City and Otay Junction is 50 cents.

While complainant has made this request for the establishment of new rates, which amount to a decrease of the compensation at present received by the defendant for traffic between San Diego and National City and Otay Junction, complainant introduced no satisfactory evidence to justify such rates. Before this Commission would be justified in reducing the rates of the defendant for traffic between San Diego and National City and Otay Junction, it would be necessary to make a careful inquiry into the value of its property and its present operating expenses, so as to ascertain whether or not such reduction would be fair. For the present the order will be confined to the establishment of a through route, without making any changes in the existing rates.

All service arrangements referred to in the defendant's offer are, of course, subject to the jurisdiction of the Commission. Two railway companies can not, by making an arrangement between themselves, remove this subject from the Commission's jurisdiction.

It is clear that complainant's line of railway has been built and is being operated primarily for the purpose of selling real estate at Imperial Beach, owned or controlled by Mr. E. S. Babcock. It is equally clear that the line is at present probably not even paying operating expenses. This is one of the many cases which are constantly coming under the Commission's observation in which a utility, such as particularly a water company or a street railroad company, is being constructed and operated for the purpose, primarily, of selling land. It often happens in these cases that the rate charged by the utility is low and attractive, so that persons are induced to buy the land. Thereafter, after the land has been sold out, it frequently happens that the utility end of the business is transferred to other hands and that the utility then appeals to this Commission for authority to increase the rate or fare on the strength of which the land was sold. In such cases the utility can show to the Commission that the return from the utility business alone is not sufficient to pay operating expenses and yield a return on the investment. While something may be said in favor of an increased rate in such cases, it seems most unfair to the persons who have bought their land on the faith of the continued existence of the low rate or fare which was held out to

them as an inducement. We are commenting on this matter in the present case for the reason that we have here a utility which starts operations subsequent to the enactment of the Public Utilities Act and which is subject from the first to the control of this Commission. We think it well to say at the very outset of this utility's operations that this Commission will not hereafter look with favor on an application for authority to increase rates upon a showing that the railroad is not paying operating expenses plus a fair return on the investment. This Commission, furthermore, will insist that the Mexico and San Diego Railway Company meet to the full its obligation to the public in the way of service, and particularly in the way of safety of operation. The fact that the revenue of this utility as distinguished from the land end of the business may not be large, will not serve as an excuse for a failure to comply with orders of this Commission compelling the safe operation of its line of railway and the continuance of the service which the company now holds itself out as performing.

We desire also to say that the Commission will not look with favor on any attempt of the complainant to compel any other utility to help the complainant bear its burdens.

I submit herewith the following form of order:

ORDER.

The complaint and answer having been filed in the above entitled proceeding, and a public hearing having been held thereon, and the Commission being fully advised in the premises, and both parties having submitted fully to the jurisdiction of the Commission to settle all points at issue, and the defendant having offered to permit the complainant to operate jointly a certain portion of defendant's line of railway, hereinafter referred to, upon the terms of a written offer, referred to in the opinion which precedes this order, subject to the decision of this Commission with reference to the points referred to in said opinion,

It is hereby ordered as follows:

1. San Diego and Southeastern Railway Company is hereby ordered to permit the Mexico and San Diego Railway Company to operate jointly that portion of the tracks of said San Diego and Southeastern Railway Company which lies between the junction of the lines of said parties at Ninth street in South San Diego and the National City and Otay Junction on the line of said San Diego and Southeastern Railway Company, until such time as the San Diego and Southeastern Railway Company shall extend its passenger service to South San Diego, subject to the following terms and conditions:

(a) The trackage charge to cover the use of said track by the cars of the Mexico and San Diego Railway Company shall be one dollar and fifty cents (\$1.50) per day.

(b) One half of the cost of installation and maintenance of special telephone service required in connection with the joint use of said track shall be paid by the Mexico and San Diego Railway Company.

(c) The running time schedule of the cars of the Mexico and San Diego Railway Company over said portion of the tracks of the San Diego and Southeastern Railway Company shall be approved by the superintendent or general superintendent of the San Diego and Southeastern Railway Company, and no trips, other than those provided in the schedule, shall be made except under orders of the superintendent or train dispatcher of the San Diego and Southeastern Railway Company, all subject to the authority of this Commission under the Public Utilities Act.

(d) Mexico and San Diego Railway Company shall hold the San Diego and Southeastern Railway Company harmless in the event of claim for any accident occurring in the operation of the cars of the Mexico and San Diego Railway Company over the tracks of the San Diego and Southeastern Railway Company, and not due entirely to the fault and negligence of the San Diego and Southeastern Railway Company, and shall provide a suitable bond in the sum of twenty-five thousand (\$25,000.00) dollars to indemnify the San Diego and Southeastern Railway against any such claims. Said bond may either be a surety bond or a personal bond. If a personal bond is offered, it shall be satisfactory to the San Diego and Southeastern Railway Company, but if the parties can not agree, the matter shall be submitted to this Commission.

(e) A through route is hereby established between the lines of railway of the parties to this proceeding, but for the present the San Diego and Southeastern Railway Company shall not be required to accept as its share of the fares less than its present schedule rates between points affected on its own line of railway.

2. The complaint, in so far as it asks for the relief herein given, is hereby sustained, but in all other respects dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 23d day of July, 1913.

DECISION No. 808.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO
WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING
THE ISSUE OF STOCK OF THE PAR VALUE OF TWO
HUNDRED THOUSAND DOLLARS.

Application No. 502.

Decided July 23, 1913.

Applicant asks permission to issue \$200,000.00 face value common stock, proceeds to be used in purchasing a site and erecting a six-story warehouse.

Held, Application granted, subject to certain conditions.

Frank J. O'Brien, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order authorizing the issue of common capital stock of the par value of \$200,000.00 for the purpose of purchasing a site and erecting thereon a six-story and basement steel frame and concrete warehouse building in the city of Sacramento.

Applicant was incorporated under the laws of this State on March 24, 1913, for the purpose of operating, managing and owning warehouses and of engaging in the general warehouse and cold storage business. The principal place of business of the corporation was stated to be Sacramento, California. The articles of incorporation specified the capital stock to be 20,000 shares of the par value of \$10.00 each, being a total par value of \$200,000.00. Of the capital stock so authorized none except one share each to qualify each of the five directors has been issued. No bonded or other indebtedness has been incurred.

Applicant's witnesses testified that, in their opinion, there is a very good field for a large fireproof warehouse in the city of Sacramento. They stated that there is at present no fireproof warehouse in the city, and that the existing warehouses, all of which are of one and two stories only, are inadequate to handle the business. Applicant has made a canvass of the situation and has assurances of being able to rent one entire floor for furniture storage, the basement for cold storage purposes, and several stories for hops, and possibly one floor for automobile and general merchandise storage. Applicant plans to divide up the top floor into small rooms for the storage of furniture, jewels and other valuables. There is also a possibility of having one floor leased for the storage of bonded liquors.

Applicant has entered into a contract with J. L. Flanagan, by which contract Mr. Flanagan agrees to convey in exchange for applicant's capital stock of the face value of \$22,000.00, a certain piece of property in the city of Sacramento, alleged to be suitable for warehouse purposes, being Lot No. 2 in block bounded by R, S, Eleventh and Twelfth streets, in the city of Sacramento. Mr. Flanagan testified that a year and a half ago he had given an option on this property for a few days for the sum of \$14,000.00, and that he considers it to be worth at least \$17,000.00 in cash. It is evident that the price to be paid, viz, \$22,000.00, par value of stock, includes discount or commissions on stock. Applicant proposes to build on said property a six-story and basement steel frame and concrete warehouse building. Applicant has entered into a contract dated March 25, 1913, with C. C. Cuff, an architect, under which contract Mr. Cuff is to prepare plans and specifications and supervise the construction of the building. Mr. Cuff, under said contract, is to receive for his services six per cent of the cost of the construction of the building, including extra work done under his direction and supervision. At the option of the owner, the architect is to take the full amount of his commission in capital stock of the applicant herein, at its par value. The six per cent is to be paid as follows: three per cent when plans and specifications have been completed and accepted; one per cent when the contract for the building has been let; and the remaining two per cent in installments as the work progress, the final twenty-five per cent of such two per cent to be withheld until after the entire work has been completed, accepted and paid for. Mr. Cuff estimates that the maximum cost of the building complete will be \$125,000.00. The plans and specifications have been submitted to a number of contractors, and the exact price for which the contract will be let will shortly be determined.

Applicant claims that subscriptions have already been made to the capital stock in the amount of at least \$72,500.00, not including the \$22,000.00, par value, which is to be exchanged for the real estate.

Applicant, by contract dated March 15, 1913, appointed Charles J. Cox, Jr., J. C. Lewis and J. L. Harvey as its financial agents, with authority to sell all of applicant's common stock at par, for which services the financial agents are to receive a commission of twenty per cent, which commission is to be paid one half in cash and one half in applicant's capital stock. The Commission will not pass on this contract, for the reason that it will not, by its act, place the applicant in such a position that it can not sell its capital stock through some other agency. While the order in this case will authorize the sale of the capital stock in such a manner as to net applicant at least \$9.00 per share in cash, and will permit applicant to issue to such agents as may

sell its stock one share for every ten shares sold and paid for, the order will not authorize the payment of any commission on the \$22,000.00, face value, of stock exchanged for the real property, for the reason that the commission is already contained in the said sum of \$22,000.00.

I find that there is a reasonable prospect for success on the part of the proposed enterprise and that the purposes for which the stock is authorized to be issued, as hereinafter specified in the order, are not in whole or in part reasonably chargeable to operating expenses or to income.

I submit herewith the following form of order:

ORDER.

Sacramento Warehouse Company having applied to the Railroad Commission for an order authorizing the issuance by said company of its common capital stock in the amount of two hundred thousand (\$200,000.00) dollars, par value, and a public hearing having been held upon said application, and it appearing that the money to be procured from the issue of stock herein authorized is reasonably required for the acquisition of property and the construction, completion, extension, and improvement of applicant's proposed facilities, and that the purposes for which the proceeds of said issue are to be used are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered as follows:

1. Sacramento Warehouse Company is hereby authorized to issue its common capital stock in an amount not to exceed that hereinafter specified for each purpose designated and the proceeds thereof shall be applied only to the following purposes, to wit:

(a) Sacramento Warehouse Company may issue twenty-two hundred (2200) shares of its common capital stock, having a par value of ten (\$10.00) dollars each, to J. L. Flanagan in exchange for a good and marketable title to Lot No. 2 in the block between R, S, Eleventh and Twelfth streets, in the city of Sacramento. A certified copy of the deed conveying the title shall be filed with this Commission.

(b) Sacramento Warehouse Company may issue and sell its common capital stock of a par value not to exceed one hundred thirty-eight thousand eight hundred and ninety (\$138,890.00) dollars, so as to net said company not less than ninety (90%) per cent in cash of the par value thereof, and may apply the proceeds only for the purpose of constructing and completing its proposed six-story and basement steel frame and concrete warehouse building, to be erected on said Lot No. 2 in the block bounded by R, S, Eleventh and Twelfth streets, in the city of Sacramento.

(c) Sacramento Warehouse Company is authorized to issue its common capital stock of a face value not to exceed six (6%) per cent of the stock authorized in section (b) of this paragraph, and not to exceed in any event capital stock of the face value of eight thousand three hundred and thirty (\$8,330.00) dollars, in payment for architect's fees, in accordance with contract dated March 25, 1913, between applicant and C. C. Cuff, a copy of which contract is attached to the petition herein and marked "Exhibit B." The payments of stock to Mr. Cuff shall be made only at the times and in the amounts specified in said contract.

(d) Sacramento Warehouse Company is hereby authorized to issue and sell its common capital stock of a par value not to exceed the sum of one thousand three hundred and thirty (\$1,330.00) dollars so as to net said company not less than ninety (90%) per cent in cash, and to use the proceeds thereof only for the purpose of purchasing furniture and for organization expenses. Before any of said money is paid for organization expenses, a statement of the proposed payment shall be filed with this Commission and this Commission's authority, which authority may be given by letter signed by the Commission, shall first have been secured.

2. Sacramento Warehouse Company is authorized to pay to its agents or solicitors on all of its stock sold for a purpose designated in paragraphs (b) and (d) of section 1 hereof, all of which stock shall be sold so as to net applicant not less than ninety (90%) per cent of par in cash, one (1) share of its fully paid up capital stock for each ten (10) shares of stock so sold. In no event shall applicant issue its said capital stock or pay any commission until said stock shall have been paid for in full.

3. Sacramento Warehouse Company shall keep separate, true and accurate accounts showing the receipts and application in detail of the proceeds of the sale or disposal of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month, the company shall make verified reports to the Commission, stating the sale or other disposition of said stock, as authorized, during the previous month, the terms and conditions of sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. This order shall apply only to capital stock issued on or before the first day of July, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of July, 1913.

Decisions Nos. 809, and 810, grade crossings; not printed. See end of volume.

DECISION No. 811.

THE TERALTA HEIGHTS IMPROVEMENT ASSOCIATION

vs.

THE PACIFIC BUILDING COMPANY.

Case No. 403.

Decided July 23, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The Teralta Heights Improvement Association having on July 16, 1913, made written request to this Commission that the complaint in the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same hereby is dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 23d day of July, 1913.

DECISION No. 812.

IN THE MATTER OF THE APPLICATION OF SARATOGA
TELEPHONE COMPANY TO SELL TO THE PACIFIC TELE-
PHONE AND TELEGRAPH COMPANY ITS TELEPHONE
PLANT LOCATED AT SARATOGA, SANTA CLARA
COUNTY, CALIFORNIA.

Application No. 642.

Decided July 23, 1913.

Application of the Saratoga Telephone Company to sell its plant to the Pacific Telephone and Telegraph Company for \$3,000.00 granted.

REPORT OF THE COMMISSION.

Saratoga Telephone Company having applied to this Commission for permission to sell to The Pacific Telephone and Telegraph Company, for the sum of \$3,000.00, its entire telephone plant located at

Saratoga, Santa Clara County, California, and within the radius of three miles from the Saratoga exchange, which property is described in the following inventory attached to the application in this proceeding and marked "Exhibit A":

Lead poles.

- 2 16-foot 4 by 4 sawed redwood poles.
- 32 18-foot 4 by 4 sawed redwood poles.
- 13 20-foot 4 by 4 sawed redwood poles.
- 5 22-foot 4 by 4 sawed redwood poles.
- 1 18-foot 4 by 6 sawed redwood pole.
- 17 20-foot 4 by 6 sawed redwood poles.
- 18 22-foot 4 by 6 sawed redwood poles.
- 137 24-foot 4 by 6 sawed redwood poles.
- 1 20-foot 6 by 6 sawed redwood pole.
- 1 22-foot 6 by 6 sawed redwood pole.
- 1 24-foot 6 by 6 sawed redwood pole.
- 1 6-foot 4 by 6 sawed redwood pole stub.
- 1 24-foot 6 by 6; 12 foot, 2 by 4, 16-foot redwood pole spliced.
- 4 18-foot 6 by 4 sawed redwood poles, push braces.
- 1 20-foot 4 by 4 sawed redwood pole, push brace.
- 1 22-foot 4 by 4 sawed redwood pole, push brace.
- 38 24-foot 4 by 6 sawed redwood poles, with gains.
- 40 extra gains on foreign poles.

268

Crossarms.

- 53 6 pin crossarms.
- 20 16 pin crossarms.
- 2 16 pin crossarms double.
- 6 No. 8 knob arms.
- 346 12-inch oak brackets.

Guys.

- 6 No. 12 iron head guys.
- 12 No. 12 iron anchor guys.
- 11 No. 12 iron anchor guys twisted.
- 1 5/16 iron anchor guy double.
- 4 5/8 anchor rods.

Line wire.

- 14.834 loop miles, No. 12 iron on glass.
- 16.510 loop miles, No. 12 iron on knobs.
- .607 loop miles, No. 14 weather proof on glass.
- .416 loop miles, No. 14 weather proof on knobs.
- .068 loop miles, No. 14 braided rubber covered on glass.
- .066 loop miles, No. 14 braided rubber covered knobs.
- .076 loop miles, No. 17, Brown & Sharpe distribution on glass.
- .180 loop miles, No. 17, Brown & Sharpe distribution on knobs.
- 337 extra knobs.

Subscribers' drop wires.

- 25 No. 12 bare iron wire.
- 28 No. 14 weather proof iron wire.
- 15 No. 14 braided rubber covered paired distribution.
- 14 No. 17 Brown & Sharpe paired distribution.

Bridle wires.

- 46 No. 18 braided rubber covered.

Installations.

11 subscribers' stations.

Lead poles.

3 4 by 6 35-foot sawed redwood poles.
 5 6 by 6 24-foot sawed redwood poles.
 16 4 by 6-foot 6-24-foot sawed redwood poles.
 202 4 by 6 24-foot sawed redwood poles, with gains.
 180 4 by 6 24-foot sawed redwood poles, no gains.
 137 4 by 6 24-foot sawed redwood poles, mountain line.
 95 4 by 4 16-foot sawed redwood poles.
 21 4 by 4 18-foot sawed redwood poles.
 15 4 by 4 18-foot sawed redwood poles, push braces.
 2 4 by 6 18-foot sawed redwood poles, push braces.
 3 4 by 6 25-foot sawed redwood poles.

662

Crossarms.

10 6 pin crossarms.
 6 4 knob arms.
 281 10-inch oak brackets.

Guys.

161 No. 12 iron guys.
 13 5/8 guy rods.

Line wire.

16 miles No. 12 iron grounded on glass.
 3 1/4 miles No. 12 iron metallic on glass.
 20 miles No. 12 iron metallic on knobs.
 167 extra No. 4 knobs.
 2 repeating coils and boxes.

Subscribers' drop wires.

9 No. 14 braided rubber covered paired distribution (average 125 feet).
 9 No. 17, Brown & Sharpe, paired distribution.
 34 No. 14 weather proof, paired distribution.
 20 No. 12 iron.

Underground railroad crossings.

400 feet of trench with 420 feet of 1 inch iron pipe.

Installations.

62 subscribers' stations.

And The Pacific Telephone and Telegraph Company having joined in the application, and it appearing to the Commission that this is not a case in which a public hearing is necessary, and also that public convenience will be subserved by the granting of this application,

It is hereby ordered that Saratoga Telephone Company be and it hereby is authorized to sell to The Pacific Telephone and Telegraph Company, for the sum of \$3,000.00, its entire telephone plant at Saratoga, Santa Clara County, California, and within the radius of three miles from the Saratoga exchange, the property to be transferred being that set forth in the inventory recited above, upon the following conditions, and not otherwise, to wit:

The price given in consideration for the property herein authorized to be transferred shall not be taken before this Commission, nor any other public body as representing for rate fixing or other purposes the value of the property transferred.

As a condition precedent to the transfer herein authorized, The Pacific Telephone and Telegraph Company shall file with this Commission a stipulation stating that after said company shall have acquired the plant of the Saratoga Telephone Company, as herein authorized, The Pacific Telephone and Telegraph Company will furnish adequate telephone service in all the territory theretofore served by the Saratoga Telephone Company.

By order of the Railroad Commission.

Dated at San Francisco, California, this 23d day of July, 1913.

Decision No. 813, grade crossing; not printed. See end of volume.

DECISION No. 814.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA APPROVING THE RENEWAL OF CERTAIN PROMISSORY NOTES.

Application No. 630.

Decided July 24, 1913.

Applicant asks opinion on Commission's jurisdiction relative to renewing short term promissory notes, and, if authorization is necessary, for approval of renewal of three notes in the sum of \$319,106.08.

Held, That Commission has jurisdiction over renewal of such notes. Permission granted applicant to issue three notes, in the aggregate amount of \$319,006.08, under certain conditions.

Charles P. Cutton, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application of Pacific Gas and Electric Company for an interpretation of certain provisions of section 52 of the Public Utilities Act, and for an order approving the execution of certain promissory notes theretofore made and executed by said company for the

purpose of renewing other promissory notes of like amount and tenor. The notes referred to are as follows:

On October 25, 1912, applicant made and executed a promissory note in favor of General Electric Company for the sum of \$119,006.08, due and payable on November 24, 1912. New notes for the same amount were thereafter made and executed in favor of General Electric Company on November 23, 1912, December 24, 1912, and March 24, 1913, extending the time of payment of said notes to December 24, 1912, March 24, 1913, and July 31, 1913, respectively.

On December 26, 1912, applicant made and executed its promissory note for the sum of \$100,000.00 in favor of Associated Oil Company, due and payable on February 24, 1913. This note was renewed by another promissory note of the same amount, made and executed on February 24, 1913.

On January 15, 1913, applicant made and executed a promissory note for the sum of \$100,000.00, also in favor of Associated Oil Company, due and payable on March 16, 1913. On January 25, 1913, for some reason which applicant's witness was unable to state, this note was renewed by another promissory note for the same amount, also due and payable on March 16, 1913.

Applicant also refers to ten certain promissory notes in the sum of \$25,000.00, payable to the order of itself and endorsed and delivered to the Bank of California National Association, but it is unnecessary to refer further to these notes for the reason that they have been paid and the indebtedness evidenced thereby discharged.

The notes in favor of the Associated Oil Company were for oil which was used in operation, and the note in favor of the General Electric Company was to pay for material used, both in construction and maintenance.

Applicant asks for the commission's view as to whether the Commission's order is necessary in case of any of these notes, and if so, to make an order approving their execution.

Section 52 of the Public Utilities Act specifies the purposes for which public utilities may issue stocks and stock certificates and bonds, notes and other evidences of indebtedness, payable at periods of more than twelve months after the date thereof. The section provides that no utility shall issue such stocks, stock certificates, bonds, notes and other evidences of indebtedness, payable at periods of more than twelve months after the date thereof unless it shall first have secured from this Commission an order authorizing such issue. With reference to notes payable at periods of not more than twelve months after the date of issuance of the same, the section provides as follows:

"A public utility may issue notes, for proper purposes and not in violation of any provision of this act or any other act,

payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the commission, but no such note shall, in whole or in part, be refunded by any issue of stocks or stock certificates, or of bonds, notes of any term or character or any other evidence of indebtedness, without the consent of the commission."

It thus appears that the utilities were granted the affirmative right to issue notes for proper purposes and not in violation of any provision of the Public Utilities Act or any other act, if these notes were payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the Commission. The purpose of this provision is to enable utilities to secure short term loans on promissory notes and to take care of emergency matters without the necessity of applying to this Commission for an order of authorization. Before the Public Utilities Act was drawn, one of the members of the Public Service Commission of New York drew attention to the fact that under a similar provision in the public service commission law of New York, some utilities were giving notes for periods of less than twelve months and then refunding these notes by means of other notes also running less than twelve months with the result that in this way their financial operations were being taken out from the jurisdiction of the Commission. In accordance with his suggestion, the Public Utilities Act of this State contains the following clause:

"But no such note shall, in whole or in part, be refunded by any issue of stocks or stock certificates, or of bonds, notes of any term or character or any other evidence of indebtedness, without the consent of the Commission."

The purpose of this clause is to prevent the endless chain arrangement to which the New York commissioner referred. While a public utility may issue one note payable at a period of not more than twelve months after the date of issuance of the same, it may not issue another note to refund or take up the first note without having drawn the matter to the attention of the Commission and secured the usual order of authorization. I am not impressed by the argument that the word "refund" refers only to notes payable to payees who might be third parties, and that it does not refer to a case in which a note is paid by means of a new note running to the same payee. I think the word clearly means that no note issued for a period of not more than twelve months without the consent of the Commission shall be refunded or taken up by any note "*of any term or character,*" whether running to the same payee or another payee.

I am accordingly of the opinion that on a proper interpretation of section 52 of the Public Utilities Act, the Pacific Gas and Electric Company should have applied for this Commission's authorization

to issue such notes as were given in renewal of the first note in each case. It is evident that all the notes executed by the Pacific Gas and Electric Company were executed entirely in good faith and without an appreciation of the significance of the provisions of section 52 of the Public Utilities Act hereinbefore referred to.

With reference to the prayer that this Commission make an order "approving the execution" by applicant of those promissory notes which were made and executed for the purpose of renewing other notes of like amount and tenor, I would say that I am satisfied that this Commission has no authority to give this specific relief. Section 52 (d) of the Public Utilities Act provides in part as follows :

"All stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, issued without an order of the Commission authorizing the same then in effect shall be void."

A note as to which this Commission's authorization is necessary is absolutely void unless such authorization has been secured. It seems clear that this Commission has no power to make valid an act which is absolutely void. The Commission can, however, direct the applicant to cancel such notes as may have been issued without its authority and authorize it to execute new notes in lieu thereof, and I recommend that such authorization be given in this proceeding.

The Commission is now considering the promulgation of a general order permitting renewals of promissory notes without first securing the consent of this Commission, provided that the total term of the original note and the notes given in renewal shall not exceed twelve months. Such an order would give to the public utilities somewhat greater freedom of action, while at the same time not imperiling this Commission's authority over the finances of public utilities.

I submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company having filed its application in the above entitled proceeding and a public hearing having been held thereon,

It is hereby ordered that said Pacific Gas and Electric Company is hereby authorized to execute and deliver its promissory notes as follows:

A promissory note in the sum of one hundred and nineteen thousand six and 8/100 (\$119,006.08) dollars, bearing interest at a rate not to exceed six (6%) per cent per annum, payable on or before October 25, 1913, in favor of General Electric Company, a corporation, to

evidence the indebtedness which was represented by promissory note in the same amount executed on October 25, 1912, in favor of said General Electric Company.

A promissory note in the sum of one hundred thousand (\$100,000) dollars, bearing interest at a rate not to exceed six (6%) per cent per annum, payable on or before December 26, 1913, in favor of Associated Oil Company, to evidence the indebtedness which was represented by promissory note in the same amount executed on December 26, 1912, in favor of said Associated Oil Co.

A promissory note in the sum of one hundred thousand (\$100,000) dollars, bearing interest at a rate not to exceed six (6%) per cent per annum, payable on or before January 15, 1914, in favor of Associated Oil Company, to evidence the indebtedness which was represented by promissory note in the same amount executed on January 15, 1913, in favor of said Associated Oil Company.

Pacific Gas and Electric Company shall make return to this Commission showing the fact of the execution of such notes and the date and amount thereof and the other information called for by General Order No. 24, in so far as applicable.

This authorization shall apply only to promissory notes executed on or before the tenth day of August, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of July, 1913.

DECISION No. 815.

L. Y. MONTGOMERY ET AL.

vs.

THE FRESNO CANAL AND IRRIGATION COMPANY.

Case No. 397.

Decided July 24, 1913.

Complainant alleges poor service and unequal distribution of water on the part of defendant.

Held, That during subsequent seasons defendant shall proportion its supply of water among its consumers in the amount to which each person is ratably entitled.

Held, That defendant shall maintain its ditches in proper condition, and shall enter into no additional contracts without the consent of the Commission.

N. C. Coldwell, for Complainants.

W. A. Sutherland, Sutherland & Short, H. P. Brown and F. E. Cook,
for Defendant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an action to compel adequate service on the part of the defendant company.

The complaint was filed on May 15, 1913. It alleges, in effect, that the complainants are farmers living in and about Laton, in what is known as the Laguna de Tache grant, in Fresno County, California; that the defendant is a California corporation engaged in the business of appropriating water from the Kings River and distributing it to the complainants and other persons residing in the counties of Fresno and Kings; that the defendant heretofore contracted to supply water to complainants, in accordance with the terms of certain water right agreements heretofore entered into; that the defendant has failed to deliver to complainants the amount of water called for in said contracts; that defendant has distributed the waters to which complainants were entitled to other lands under contracts issued subsequent to those with complainants; that defendant has failed to keep its canals and ditches, dams, bulkheads and headgates in good condition, so as to render good service to the complainants; and that the waters turned into defendant's canals and ditches have not been equitably divided between the persons entitled thereto. The complainants ask that the defendant be compelled to distribute to persons living on the Laguna de Tache grant all the water to which they are equitably entitled; that the defendant be required to perform fully all the terms and conditions of its contracts with the complainants; and that an equitable division of the water coming into the defendant's ditches supplying the Laguna de Tache be given to each person entitled to receive water from such ditches and canals. Attached to the complaint are the names of 300 persons other than those named at the head of the complaint, which persons also ask for an equitable and adequate service from the defendant company. A part of the complainants were represented by Mr. N. C. Coldwell, and a part living on what is known as the "Island Country" were not represented by an attorney. The relief herein given will apply to all the complainants, including those in the Island Country.

On May 28, 1913, the defendant filed its answer. After alleging that this Commission has no jurisdiction in the matter and that the defendant has not sufficient information with reference to the title of the complainants to their land, the answer denies that the defendant has not distributed to the complainants the amounts of water to which they were entitled, and denies that the defendant has failed to keep its canals and ditches, dams, bulkheads and headgates in proper condition. The defendant alleges that it has fully complied with its contracts; that the years 1912 and 1913 have been unusually dry and that the quantity of water required for irrigation has become greater, and the amount of water lost in transmission through defendant's canals has largely increased over the amount so lost during normal years; that defendant has been prevented by hostile diversion and obstruction and court orders from appropriating from the Kings River the amount of water to which defendant is entitled, and that it has used all due diligence to restore and protect the flow in its ditches of the amount of water to which defendant claims to be entitled from the Kings River; that defendant has requested complainants to organize and co-operate with the defendant in the distribution of the water, but that complainants have refused to do so, and that the defendant is ready and willing to carry out its contracts and to meet its obligations, and that it has done so except when unavoidably hindered and prevented.

The public hearings in this case were held on June 24th and 25th at Hanford, and on July 21st at Fresno.

It appears that the complainants reside in what is known as the Laguna de Tache grant, in township 17 south, ranges 20 and 21 east, and in township 18 south, ranges 19 and 20 east. M. D. B. and M., and that they receive water from the defendant's system of canals and ditches, through what is known as the Grant Canal, which canal is at the lower end of defendant's system. The complainants presented evidence to show that they had not received the amount of water to which they were ratably entitled under their contracts. These contracts provide in part that if there is a shortage of water, the consumers of the company shall each receive his ratable proportion thereof. The complainants presented evidence to show that they had not received their ratable proportion for the reason, among others, that the defendant company had permitted persons living nearer the source of supply to take from its canals more than their ratable proportion of the water. The evidence shows that this contention is correct, and that the defendant company failed in its duty to make a ratable distribution of the water. The fact that it is difficult

to secure convictions for unauthorized diversions of water from the defendant's system is no excuse for a failure on the part of the defendant to do all in its power to enforce an equitable distribution of the water in its canals.

The complainants also contended that the defendant's canals were not kept in proper condition. There was some evidence to the effect that at certain points willow trees and hog fences obstructed the flow of water in defendant's canals and ditches. This condition exists to the same or to a greater extent with reference to the canals and ditches owned by the farmers themselves.

The complainants further contended that the defendant was selling water rights on other tracts which had recently opened, and that a portion of the water to which they were entitled was being diverted to such tracts. The evidence on this point was not definite, and in the absence of an opportunity to the defendant to meet this issue, I can make no finding on this point. The matter is taken care of in the order which follows this opinion.

On the third day of the hearing the defendant admitted that it had failed to give to a large portion of the complainants the water to which they were ratably entitled. While the defendant claimed that persons and water companies lower down on the Kings River were diverting more water than they were entitled to, and that consequently the defendant had been unable to divert into its canals the full amount of water to which it was entitled, defendant also at the same time admitted that it had not ratably distributed the amount of water which it actually had in its canals. Defendant offered to consent to the making of an order directing it in subsequent irrigating seasons to do its full duty to the complainants, both as to the ratable distribution of the water and as to the maintenance of its canals and ditches in proper condition. Defendant also agreed that it would not sell any additional water rights unless it should first have secured from this Commission an order authorizing such sale. The defendant, however, did not admit that water rights in excess of the capacity of its system had been sold. After a full discussion, both sides stipulated to the entry by the Commission of the order which follows this opinion.

I submit herewith the following form of order:

ORDER.

A public hearing having been held on complaint and answer in the above entitled proceeding, and the Commission being fully advised in the premises, the Commission hereby makes the following findings of fact:

1. That the defendant company on the date of the filing of the complaint herein had failed to deliver to a large portion of the com-

plainants, including the persons whose names appear in Exhibit "B" attached to the complaint, the water to which they were ratably entitled under their contracts.

2. That the defendant company to some extent had failed to keep its canals and ditches in proper condition for the conveyance and delivery of water.

Basing its order on the foregoing findings of fact, and on the further findings contained in the opinion which precedes this order, and also the stipulation made by both parties in open court, consenting to the entry of the following order,

It is hereby ordered as follows:

1. The Fresno Canal and Irrigation Company is hereby ordered to supply to the complainants in the above entitled proceeding, including the persons whose names are specified in Exhibit "B" attached to the complaint, and the residents in what is known as the "Island Country," during subsequent irrigation seasons, the full amount of water to which each of said persons is ratably entitled, and to adopt and enforce, subject to this Commission's authority, such reasonable rules and regulations as may be necessary to this end.

2. The Fresno Canal and Irrigation Company is hereby ordered to place and maintain its canals and ditches and appurtenances in proper condition for the conveyance and delivery of water, and to provide and properly instruct a sufficient number of capable employees, and to keep such records that it may be determined month by month whether the persons specified in section one of this order are securing their ratably proportion of water.

3. The Fresno Canal and Irrigation Company shall dispose of no further water rights until an order of this Commission shall first have been secured authorizing it so to do.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of July, 1913.

Decisions Nos. 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, and 826, **grade crossings**; not printed. See end of volume.

DECISION No. 827.

ASSOCIATED CHAMBERS OF COMMERCE OF ORANGE
COUNTY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 420.

Decided July 29, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Associated Chambers of Commerce of Orange County having on July 29, 1913, made written request to this Commission that the complaint in the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same hereby is dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 828.

FELLOWS CHAMBER OF COMMERCE

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
(OPERATING SUNSET WESTERN RAILWAY).

Case No. 343.

Decided July 29, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Fellows Chamber of Commerce having on July 19, 1913, made written request to this Commission that the complaint in the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same hereby is dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 829.

IN THE MATTER OF THE APPLICATION OF THE HANFORD
WATER COMPANY FOR AN ORDER AUTHORIZING ISSUE
OF FIVE THOUSAND EIGHT HUNDRED AND SEVENTY-
FIVE SHARES OF ITS TREASURY STOCK.

Application No. 623.

Decided July 29, 1913.

Application of The Hanford Water Company to issue 5,875 shares of common stock of the par value of \$10.00 per share, proceeds to be used to reimburse stockholders for advances in the sum of \$47,000.00.

Held. Property value not warranting requested issue, applicant permitted to issue \$47,000.00 par value of its capital stock, subject to certain conditions.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by The Hanford Water Company for an order authorizing the issue of 5,875 shares of its capital stock with a par value of \$10.00 a share.

Applicant is a water company owning and operating wells and a distributing system furnishing water to the inhabitants of the city of Hanford for domestic and industrial purposes.

Applicant has authorized common capital stock of \$200,000.00, of which there has already been issued and is now outstanding, \$116,500.00 par value, and its only indebtedness is \$13,600.00 evidenced by promissory notes, and current indebtedness of \$600.00.

The company introduced evidence at the hearing to show a plant value of \$129,310.81, with an annual net profit of \$12,676.98. Out of this earning, dividends of five per cent per annum have been declared on the outstanding stock.

In September, 1912, there were outstanding bonds of applicant, secured by its water system, in the amount of \$47,000.00 face value, and in that month the stockholders of the company advanced \$47,000.00, with which money the company retired all of these bonds. The stockholders now ask reimbursement for this advancement, and are willing to take capital stock therefor.

It is requested that these stockholders be allowed to take stock on a basis of 80 per cent of the par value, but inasmuch as the present stockholders will receive whatever additional stock is issued, it was admitted by representatives of applicant at the hearing that no injury would result to the present stockholders who advanced the money aforesaid, if the amount of stock given them in compensation therefor was less than the amount asked for in the application.

While the 5,875 shares of stock asked to be authorized would be in effect sold on a basis of 80 per cent of par if this stock were delivered in compensation for the \$47,000.00 advanced to applicant, yet in view of the fact that all of the outstanding stock, including that herein asked to be authorized, would be represented by less than 80 per cent of property to par of stock outstanding, I recommend that applicant be authorized to issue \$47,000.00 par value of its capital stock, and to deliver said stock to the persons who advanced the \$47,000.00 with which to retire the bonds as above explained. Said delivery of stock to be in full compensation for any and all claims against applicant by reason of said advancement. This will result in all outstanding stock being represented by approximately 80 per cent of the value of property testified to by representatives of applicant.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by The Hanford Water Company for an order authorizing the issue by said company of 5,875 shares of its capital stock having a par value of \$58,750.00, and a hearing having been duly held and it appearing to the Commission that the money to be secured by the issue of the stock herein authorized is necessary and reasonably required by said company for the discharge of its obligations, and that the purposes for which the proceeds of the sale of said stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by The Hanford Water Com-

pany of \$47,000.00 par value of its capital stock, said stock to be issued upon the following conditions, not otherwise:

1. The Hanford Water Company shall issue and deliver said stock in full payment and satisfaction of advancements made in September of 1912 for the purpose of paying off \$47,000.00 face value of The Hanford Water Company's bonds then outstanding, said advancements being in the total amount of \$47,000.00.

2. As a condition precedent to the effectiveness of this order, The Hanford Water Company shall submit to this Commission a complete list of the names and the amounts advanced by each of the persons who seek reimbursement through the stock issue herein authorized.

3. Upon the delivery of the stock herein authorized to the above described persons, The Hanford Water Company shall submit to the Commission satisfactory evidence that all obligations of said company, because of the advancement of \$47,000.00 made to it for the purpose of retiring its bonds, have been satisfied and discharged.

4. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

5. The authority hereby given to issue such stock shall apply only to stock issued by said company on or before the 31st day of December, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 830.

IN THE MATTER OF THE APPLICATION OF P. T. DURFY AND
SHERMAN WATER COMPANY FOR AN ORDER AUTHORIZING
THE SALE OF WATER SYSTEM.

Application No. 576.*Decided July 29, 1913.*

Application of P. T. Durfy to sell and Sherman Water Company to buy a water system in the town of Sherman, and of Sherman Water Company to issue therefor 120 shares of capital stock of the par value of \$100.00 per share granted.

Guernsey E. Nowlin, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by P. T. Durfy and Sherman Water Company for an order authorizing said Durfy to sell and convey to said Sherman Water Company, a water distributing system located in the town of Sherman, county of Los Angeles, and for an order authorizing said Sherman Water Company to purchase said water system and to issue 120 shares, par value, of its capital stock in payment therefor.

P. T. Durfy owns and operates a water system which furnishes water for domestic use to consumers in and about the town of Sherman in the county of Los Angeles. He has operated this water system under the name of Sherman Water Company and he now desires to separate this from his other business activities and to conduct it as a separate enterprise, and therefore, has caused to be incorporated the Sherman Water Company with a capitalization of \$15,000.00, divided into 150 shares of the par value of \$100.00 each, and he proposes to transfer his water system unincumbered to this corporation and to take, in payment therefor, 120 shares of the capital stock.

The water system in question consists of wells, water rights, rights of way, pumping plants, reservoirs, pipe lines, meters, tools, etc., and Mr. Durfy testifies that this plant is worth in excess of \$15,000.00, and that his net income from the operation of this plant for the last fiscal year was about \$2,700.00, not including any payment for his own services.

As the par value of the stock asked to be issued by the Sherman Water Company in exchange for this property will be \$12,000.00, I believe the purchase price and the amount of stock asked to be authorized and issued reasonable.

In view of the fact that it is expected that the Los Angeles aqueduct will be completed in the near future, and the possible effect of competition by this aqueduct system with the water system now owned by Mr. Durfy is problematical, some safeguard should be thrown around the sale of the stock herein asked to be authorized until the status of this water system with relation to the Los Angeles aqueduct is determined.

Mr. Durfy offers to submit to the Commission before any sale of the stock herein asked to be authorized shall be made, a statement from the prospective purchaser of stock that he is put on full information of the status of the Sherman Water Company. Therefore, I recommend that the application be granted with the condition embodying the suggestion made by Mr. Durfy just above noted, and I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by P. T. Durfy and Sherman Water Company for an order authorizing the sale of a water system located in and about the town of Sherman, Los Angeles County, and for an order authorizing the Sherman Water Company to purchase said water system and to issue and pay therefor, 120 shares of its capital stock,

And a hearing having been held and it appearing to the Commission that public convenience and necessity will be served by the transfer of said property for the price or consideration of 120 shares of the capital stock of the Sherman Water Company, and it further appearing that the property to be secured by the Sherman Water Company for the issuance and transfer of said 120 shares of its capital stock is necessary and reasonably required by said company for the conduct of the business for which it was organized, and that the purposes for which the proceeds of the sale of said stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize P. T. Durfy to sell and convey to the Sherman Water Company that certain water system, known as the Durfy Water System and the Sherman Water System, together with all wells, water rights, pipes, pipe lines, rights of way, pumping plants, reservoirs, meters, tools and all connections and any and all other appurtenances thereunto belonging or in anywise appertaining; also all private rights of way belonging to said P. T. Durfy where the pipes of said water system are now located through private property; also that certain piece or parcel of land located in the town of Sherman, county of Los Angeles, State of California, containing one half ($\frac{1}{2}$) acre more or less, on which the pumping plants, reservoirs and wells

used in connection with said system are located, in consideration of the transfer to said P. T. Durfy of 120 shares of the capital stock of the Sherman Water Company.

Sherman Water Company is hereby authorized to issue 120 shares of its capital stock and to transfer said stock in full payment for an unincumbered and marketable title to the water system just above described.

As a condition precedent to the effectiveness of this order, P. T. Durfy shall file with this Commission a satisfactory agreement to the effect that he will not transfer any of the stock which he shall receive on the transfer of the water system above described until there shall have been filed with this Commission a satisfactory statement by the prospective purchaser of said stock, that he has been put on full information of the status of said Sherman Water Company.

Said company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

The authority hereby given to issue said stock shall apply only to stock issued by said Sherman Water Company on or before the 31st day of July, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 831.

CLAYBURGH AND GEORGE ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 247.

Decided July 29, 1913.

Complainants allege excessive charges collected and ask reparation on carload shipments of live stock.

Held, Shipments moving prior to October 10, 1911, complaint dismissed.

J. O. Bracken, for Complainants.

George D. Squires, for Defendants.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

Complainants allege that they are entitled to award of reparation because of certain alleged excessive charges collected by the defendant company upon carload shipments of live stock moving between points within this State. The shipments in question all moved between February 10, 1910, and November 15, 1910. Complainants base their claim to reparation upon the fact that the through commodity rates, as published by defendant company's schedules C. R. C. 108 and C. R. C. 1725, were collected, and that these rates are greater than a combination of intermediate class and commodity rates; and complainants allege that the rates collected were unreasonable to the extent that they exceeded combinations of intermediate class and commodity rates.

The basis of the claim for reparation, therefore, is that the rates collected were unreasonable. This Commission has already announced in the case of *Scott, Magner & Miller et al vs. Western Pacific Railway Company*, Case No. 283, decided on April 15, 1913, that prior to October 10, 1911, there was no substantiative right to reparation solely because the rate charged was found to be unreasonable, the remedy of the shipper being to apply to the Commission and obtain a reduction in the rate applicable to future shipments.

It appears, therefore, that complainants in this case have no right to the reparation which they seek, and I accordingly recommend that the complaint be dismissed, and submit the following form of order:

ORDER.

This case having come on regularly for hearing, and the Commission being duly advised in the premises,

It is hereby ordered that the complaint in this proceeding be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 832.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC
GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE
RAILROAD COMMISSION AUTHORIZING THE RENEWAL
OF CERTAIN PROMISSORY NOTES.

Application No. 647.*Decided July 29, 1913.*

Application of Pacific Gas and Electric Company for authorization to renew three promissory notes in the aggregate amount of \$250,774.95 granted.

C. P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application to renew three certain promissory notes heretofore executed by applicant in favor of General Electric Company. These notes are as follows:

1. Promissory note for \$56,040.04, dated May 23, 1913, and due July 22, 1913.
2. Promissory note for \$119,006.08, dated March 24, 1913, and due July 31, 1913.
3. Promissory note for \$75,728.83, dated March 24, 1913, and due July 31, 1913.

All of these notes bear interest at the rate of 6 per cent per annum and were given in payment for material and supplies, a portion of which was used in permanent additions and betterments and a portion in the maintenance and operation of applicant's plants. Applicant desires authority to renew each of these notes and to execute and deliver to General Electric Company in their place a new note in each case of like amount and tenor, due not more than ninety days after the date of maturity of the original note. The General Electric Company is unwilling to accept notes of a term longer than ninety days.

The applicant will hereafter formulate some plan for taking care of these notes.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for its order authorizing the renewal of the promissory notes

hereinafter specified and the execution and delivery in lieu thereof of other notes of like amount and tenor due not more than ninety days after the date of maturity of the original note in each case, and a public hearing having been held upon said application,

It is hereby ordered that Pacific Gas and Electric Company be and the same is hereby authorized to execute new notes payable not more than ninety (90) days after date of maturity of the notes hereinafter specified, of like amount and tenor, bearing interest at a rate of not to exceed six (6%) per cent per annum, in lieu of the following promissory notes heretofore made and executed by applicant in favor of General Electric Company:

1. Promissory note in the amount of fifty-six thousand forty and 1/100 (\$56,040.04) dollars, dated May 23, 1913, and due July 22, 1913.

2. Promissory note in the amount of one hundred and nineteen thousand six and 8/100 (\$119,006.08) dollars, dated March 24, 1913, and due July 31, 1913.

3. Promissory note in the amount of seventy-five thousand seven hundred twenty-eight and 83/100 (\$75,728.83) dollars, dated March 24, 1913, and due July 31, 1913.

Pacific Gas and Electric Company shall report to this Commission the fact of the execution of such new notes with the date and amount and terms thereof, in accordance, in so far as applicable, with the provisions of this Commission's General Order No. 24.

This order shall apply only to promissory notes executed on or before the 10th day of August, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 833.

IN THE MATTER OF THE APPLICATION OF J. FRANK JACKSON AND IDA H. JACKSON FOR PERMISSION TO INCREASE RATES FOR DOMESTIC WATER SERVICE AT SAN MARTIN, COUNTY OF SANTA CLARA, CALIFORNIA.

Application No. 385.

Decided July 29, 1913.

Applicants ask permission to increase rate for first 5,000 gallons of water from \$1.50 to \$3.00.

Held, That applicants' present income from this property represents a fair return on capital invested. Application dismissed. Applicants ordered to install meters to all consumers with one exception.

Devoto, Richardson & Devoto, for Applicants.

W. R. Biaggi, for Protestants.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

The application in this proceeding sets forth that the applicants are at the present time supplying water in the town of San Martin, Santa Clara County, California, at the rate of \$1.50 for the first 5,000 gallons and 25 cents for each additional 1,000 gallons, or fraction thereof; that the water is supplied from springs, the source of which is approximately three miles from the town; that the water is conveyed from these springs to a cement reservoir and then by a gravity system to the consumers in San Martin; that the value of the plant is approximately \$10,000.00, and that the present revenue is approximately \$37.00 per month; that it is necessary to make certain expenditures to make certain improvements in the system by installing cement or concrete inclosures where the springs come to the surface and to install additional meters and relay a portion of the pipe line system.

Applicants request that they be permitted to put into effect a rate of \$3.00 for the first 5,000 gallons of water and 25 cents for each 1,000 gallons in addition.

A protest against the granting of this application was signed by a large number of water users at San Martin and filed with this Commission.

Applicants allege that the value of the water system at San Martin is approximately \$10,000.00. At the hearing, it appeared that the system was constructed in 1894 and had been sold several times prior to 1910 for approximately \$3,000.00, and that in 1910 the then owner constructed a reservoir, and later sold the system to the present owners for \$6,000.00. At the hearing, applicants voluntarily reduced their estimated value of the plant from \$10,000.00 to \$6,000.00. The Commission's Engineering Department has made an investigation of this plant, and, including \$300.00 for improvements which applicants contemplate installing immediately, has determined the value of the plant to be \$3,817.00.

Applicants are at present supplying thirty-three consumers, including the Southern Pacific Company, which company has four separate service connections.

The income, at the present rates, for the year 1912, amounted to \$554.00, and during the period from August 1, 1912, to June 1, 1913, amounted to \$533.00. There is no reason for believing that the present

income will decrease, and I feel safe in assuming, from the figures just stated, that the average annual income of applicants will amount to practically \$640.00.

During 1912, applicants' operating expense amounted to \$130.46. While I believe that this estimate is low, nevertheless, I am of the opinion that the present rates are sufficient to produce for applicants a reasonable return upon their investment. The present rates in effect are higher than those in many similar villages, and applicants having a gravity system are free from the usual expense of pumping water.

Seven of applicants' consumers do not have meters, and the protestants to this application have claimed that this amounts to a discrimination, because the unmetered consumers make an extravagant use of the water, at a rate far less than is charged to the consumers who have meters. Applicants have stated in the application that they contemplate installing the additional meters. I believe that in this instance, where the supply of water is limited, it would be wise to have all of the consumers upon a meter basis. This will conserve the supply and make each of the consumers pay for exactly the amount of water which is used.

I recommend that applicants be required to install meters to all consumers, with one exception. This exception is the Southern Pacific Company. That company has four separate service connections. One of these is situated at a stock corral, and is seldom, if ever, used. The other connections, with one exception, are used so infrequently that I am of the opinion, and find as a fact, that the case of the Southern Pacific Company is in a class by itself, and that applicants should not be required to bear the expense of installing meters for these connections, but should charge a flat rate for the service furnished to this company.

In accordance with the conclusions herein announced, I submit herewith the following order:

ORDER.

J. Frank Jackson and Ida H. Jackson having applied to the Commission for authority to increase rates for water service supplied in the town of San Martin, Santa Clara County, California, a public hearing having been held upon this application and the Commission being duly advised,

It is hereby ordered that prior to September 1, 1913, applicants shall, at their own expense, install a water meter for each of their consumers, except as hereinafter provided, in so far as meters have not already been installed.

It is further ordered that applicants need not install meters upon the connections supplying the Southern Pacific Company at San Martin.

but that on and after August 1, 1913, applicants shall charge said company for water service a flat rate of \$1.00 per month for each connection.

It is further ordered that in all other respects the application in this proceeding be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 834.

V. A. SOLARI ET AL.

vs.

TUOLUMNE COUNTY ELECTRIC POWER AND LIGHT
COMPANY.

Case No. 372.

Decided July 29, 1913.

Complainants allege defendant's rates for electrical energy are unjust and discriminatory and petition the Commission to establish just rates. Commission finds defendant's plant has a valuation of \$34,475.00, on which defendant is entitled to earn a reasonable return.

Held, That the rates of defendant are excessive and defendant ordered to publish and put in effect within twenty days the rates established by this Commission.

J. C. Webster and Rowan Hardin, for Complainants.

J. B. Curtin, for Defendant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is a complaint by more than twenty-five residents of Jamestown, Stent and Quartz, in Tuolumne County, California, against the Tuolumne County Electric Power and Light Company, complaining principally of the rates of said company.

The complaint alleges that the defendant is a California corporation engaged in supplying electricity for general domestic and commercial uses in Tuolumne County; that defendant's rates are unjust and unreasonable; that defendant purchases its electric energy from the Sierra and San Francisco Power Company at a cost of not to exceed

three quarters of one cent per kilowatt hour; that the value of defendant's distributing system is not in excess of the sum of \$10,000.00; that defendant has refused to install meters on demand; and that defendant's flat rates are unreasonably high as compared with its meter rates. The complainants pray that this Commission establish reasonable rates and charges for defendant's service and that defendant be required to serve electric energy to all consumers upon like terms and to install meters for the use of all of its patrons.

The answer denies that the cost of electric energy to defendant does not exceed three quarters of one cent per kilowatt hour, and alleges that the cost is $1\frac{1}{4}$ cents per kilowatt hour; denies that the value of defendant's distributing system does not exceed the sum of \$10,000.00, and avers that its value is in excess of the sum of \$40,000.00; denies that its rates are unjust or unreasonable, and avers that they yield defendant no more than a fair compensation; denies that defendant has refused to install meters, and avers that it prefers to have its customers metered rather than on flat rates; and avers that all of the complainants who are its customers, except one, are supplied with a meter, and that this one customer prefers flat rates.

A public hearing in this proceeding was held in Jamestown on June 9, 1913. Both sides presented evidence, and Mr. G. R. Kenny, one of this Commission's engineers, presented an exhaustive report which had been prepared by himself and Mr. Arthur R. Kelley, another of this Commission's engineers. The Commission has given careful consideration to all the evidence and has been materially assisted by Mr. F. Emerson Hoar, of the Commission's rate department.

The defendant's principal place of business is in Sonora, Tuolumne County, California. Defendant furnishes electric energy for residence, store and street lighting in the city of Sonora and the unincorporated towns of Jamestown, Quartz, Stent and Columbia, all in Tuolumne County. Defendant purchases its electric energy from the Sierra and San Francisco Power Company at the rate of $1\frac{1}{4}$ cents per kilowatt hour. The energy is delivered to the defendant at Sonora at 2300 volts pressure and distributed at this voltage in Sonora, and by means of a 2300-volt transmission line, a distance of five miles in a general northwesterly direction to Columbia and by a similar line in a general southwesterly and southerly direction, a distance of some four miles to Jamestown, and thence a few miles beyond to Quartz and Stent.

The defendant was incorporated in 1896. At this time a 160 kilowatt hydroelectric plant was constructed on the Stanislaus River, about $2\frac{1}{2}$ miles northwest of Columbia. Electric energy was delivered from said plant to a mine at Rawhide, to a marble quarry near the plant, and to a few inhabitants in the town of Columbia. The Columbia Marble Company, which operates the quarry, was at that time and

still is owned in part by the same people who own the stock in the defendant company. In 1897 or 1898 the line to the Rawhide mine was taken up and moved, in order to extend the service to Sonora, where an old lighting system had been bought from local people. Thereafter, the line to Jamestown, Quartz and Stent was built. The contract with the Sierra and San Francisco Power Company was entered into on August 10, 1910. At or about the time the defendant began securing its power from the Sierra and San Francisco Power Company, it sold its hydroelectric plant on the Stanislaus River to the Columbia Marble Company. The transmission line from this plant to Columbia is still maintained, although it has not been used for three or four years.

Defendant furnishes electric energy for street lighting in Sonora and to a lighting district in Jamestown. The municipalities pay for the lamps and connections to the defendant's system. The approximate population in the district served is 3,350, and the number of customers served on or about June 6, 1913, was 508. During the year 1912, defendant purchased 431,920 kilowatt hours of electric energy from the Sierra and San Francisco Power Company.

There is no satisfactory evidence of a refusal on the part of defendant to furnish meters on demand. While a meter was removed from certain premises in Jamestown belonging to Mrs. L. L. Coffey, it appears that this was done because the house became vacant and because the owner was unwilling to continue paying the \$1.00 minimum per month. There is no evidence that a tenant has been secured for the premises or of any demand upon the defendant to restore the meter.

With reference to the alleged discrimination between the flat rates and the meter rates, the testimony shows that the defendant is abolishing all its flat rates as speedily as possible and that within the course of a few months none of them will be remaining. It accordingly becomes unnecessary to consider this aspect of the case.

This leaves for consideration the main question in the case, which is the reasonableness of the existing rates.

The present meter rates of the defendant are as follows:

Lighting—Meter rates:

| | | |
|----------------------------------|--------|-------------------|
| 0 to 200 kilowatt hours | \$0 10 | per kilowatt hour |
| 200 to 300 kilowatt hours | 09 | per kilowatt hour |
| 300 to 400 kilowatt hours | 085 | per kilowatt hour |
| 400 to 500 kilowatt hours | 07 | per kilowatt hour |
| 500 to 600 kilowatt hours | 06 | per kilowatt hour |
| 600 to 800 kilowatt hours | 055 | per kilowatt hour |
| 800 to 1000 kilowatt hours | 05 | per kilowatt hour |
| Minimum rate residence | 1 00 | per month |
| Minimum rate business | 1 50 | per month |
| Lamp renewals, carbon each | 25 | per month |

Tungsten, regular prices.

Cooking and small power meter rates:

| | | |
|---|----|-------------------|
| Per kilowatt hour..... | \$ | 06 |
| For cooking To be used between 6 a. m. and 5.30 p. m. | | |
| Power: To be used only between 7 a. m. and 5 p. m. | | |
| Minimum rate for cooking..... | 5 | 00 per month |
| Minimum bill for power..... | 1 | 00 per horsepower |
| per rating of meter per month. | | |

Discounts:

A discount of 5 per cent on bills of \$5.00 and less, and 10 per cent on bills of over \$5.00 if paid within ten days of date of bill.

Deposit on meters:

On all installations of 7- to 16-candlepower lamps a deposit of \$5.00 will be required, same to be returned when service is discontinued.

On installations of 8- to 16-candlepower lamps no deposit will be required.

Defendant has never sold any current under its cooking rate. Neither has it supplied any power. Notwithstanding the discount for prompt payment, there are outstanding bills amounting to \$7,132.48 unpaid. It is evident that the defendant has not made the proper effort to collect its accounts and that it should exert itself to secure a more prompt payment of the bills owing to it. While the defendant's rates include an item of deposit for meters, the practice of charging a deposit was abolished on January 1, 1913. The defendant's rate schedule should be changed so as to show the facts.

I shall now consider the proper value to be assigned to defendant's property for rate fixing purposes, and shall also analyze the defendant's operating expenses and examine such other facts as may be necessary to determine the just and reasonable rates to be charged by the defendant company for its service. In reaching my conclusion I shall examine the system as a whole, for the reason that, in my opinion, this is the only fair way to handle the problem in this case.

The annual report filed by defendant with this Commission for the year ending December 31, 1912, shows that defendant has an authorized stock issue of 100,000 shares, of the par value of \$10.00 per share, and that all the stock has been issued. It is now owned as follows:

| | | |
|-----------------------|---------|--------|
| Amanda C. Crooks..... | 99,975 | shares |
| J. C. Crooks..... | 5 | shares |
| David Hearfield..... | 5 | shares |
| F. D. Madison..... | 5 | shares |
| Platt Kent..... | 5 | shares |
| W. D. Bannister..... | 5 | shares |
| | 100,000 | shares |

The report claims income account for the year 1912, as follows:

| | | |
|----------------------------|----------|----|
| Operating revenue..... | \$20,746 | 18 |
| Operating expenses..... | 18,471 | 12 |
| Net operating revenue..... | \$2,275 | 06 |
| Dividend | 2,150 | 96 |
| Profit and loss..... | \$124 | 10 |

The report states the value of defendant's equipment to be \$42,682.42, and claims an additional \$500.00 for real estate, which real estate, as shown by the testimony, is not used by defendant in connection with its public utility business. The report also shows unamortized discount on capital stock amounting to \$952,073.30. An item of \$853.64 was claimed for depreciation. All of the foregoing items, in so far as material, will hereinafter be analyzed and scrutinized.

1. *Original cost.*

There is no satisfactory evidence with reference to the original cost of defendant's property. Defendant's manager, Mr. H. J. Coffill, testified that in an inventory of cost to reproduce the property which he presented to the Commission he had used original costs in so far as possible. These costs, however, apply only to material and labor of the last few years. There is no record of the cost prior to such time.

2. *Reproduction cost.*

Mr. H. J. Coffill presented an inventory of the defendant's property with value representing the cost to reproduce the property under similar circumstances to those under which it was originally produced. The total amount, as reported by Mr. Coffill, is \$46,398.68, consisting of the following items:

| | |
|---|-------------|
| Sonora equipment..... | \$22,899 95 |
| Tools at Sonora..... | 403 20 |
| Merchandise at Sonora..... | 3,302 06 |
| Columbia equipment..... | 1,476 10 |
| Line from Sonora to Columbia..... | 4,368 13 |
| Line, Columbia Junction to river plant..... | 3,622 12 |
| Jamestown equipment..... | 4,567 07 |
| Line, Sonora to Jamestown..... | 3,203 06 |
| Quartz equipment..... | 789 79 |
| Line, Jamestown to Quartz..... | 842 26 |
| Stent equipment..... | 454 40 |
| Line, Quartz to Stent..... | 470 54 |
| Total | \$46,398 68 |

In order to ascertain the property used and useful for the public service, deductions and additions should be made to this total as follows:

| | |
|----------------------------|-------------|
| <i>Deductions:</i> | |
| Error in labor item..... | \$1,110 00 |
| Storeroom stock..... | 3,298 56 |
| Error in tools..... | 404 20 |
| Merchandise at Sonora..... | 3,302 06 |
| | <hr/> |
| | \$8,114 82 |
| | <hr/> |
| | \$38,283 86 |
| <i>Additions:</i> | |
| Stores and supplies..... | 456 00 |
| | <hr/> |
| | \$38,739 86 |
| <i>Deductions:</i> | |
| Stanislaus River line..... | 3,622 12 |
| | <hr/> |
| | \$35,117 74 |

The labor item, amounting to \$1,110.00, should be deducted for the reason that the total for labor is by that amount in excess of what Mr. Coffill meant to claim, as is shown by page 139 of the transcript. The item of \$3,298.56 for storeroom stock should be deducted for the reason that it is already included in the total of \$22,899.95 for Sonora equipment. The item of \$404.20 for tools should be deducted for the same reason. The item of \$3,302.06 for merchandise at Sonora should be deducted for the reason that this is merchandise carried in a general electric equipment and supply business which defendant conducts at its store in Sonora. This business has no necessary connection with defendant's duty as a public utility and for that reason defendant is not entitled to rates on this portion of its business. Both the receipts and expenditures from this business should be considered separately from defendant's business as a public utility. The sum of \$456.00, however, should be added to cover the item of such stores and supplies as must be kept on hand in connection with defendant's duty as a public utility.

As has hereinbefore been stated, the Stanislaus River line has not been used by defendant since it began to receive its electric energy from the Sierra and San Francisco Power Company. The testimony shows that while defendant maintains this line as an emergency source of supply, it will not have to rely on the line unless both the hydro-electric operations of the Sierra and San Francisco Power Company above Sonora and its steam plant in San Francisco should become unavailable at the same time. These two conditions have not as yet occurred and the possibility of their doing so seems entirely too remote to justify the continued inclusion of this line in capital account on which the defendant may justly claim to be entitled to a fair and reasonable return. It seems fair, however, to permit the defendant during each of the ensuing ten years to collect rates high enough to permit it to charge off such sum on its books that by the end of the ten years the principal so charged off, together with the interest, shall have amounted to the entire value of the line at the present time. I believe that it will be very liberal on the part of rate fixing authorities to permit this to be done.

It thus appears that the net result of the foregoing deductions and additions show a total estimated reproduction cost of its property, according to the defendant's claim, amounting to \$35,117.74. The Kelley-Kenny report, which was prepared after a careful inspection and inventory of the property on the ground, shows a cost to reproduce the property new amounting to \$38,022.00. This amount includes, as

a portion of the cost of reproducing the physical plant, the following items:

Ten per cent of the physical plant to cover engineering, organization, legal expenses and supervision during construction of the plant;

Five per cent of physical plant and engineering and superintendence to cover omissions and unforeseen contingencies;

Three per cent of the preceding items to cover interest on money tied up during construction period, on the assumption that one year would be required to build the plant and that all the money would be in use half of the time with interest at 6 per cent per annum;

Stores and supplies amounting to \$456.00, covering construction material on hand on January 1, 1913;

And one month's operating expenses, amounting to \$1,375.00, as a working cash fund to carry the current expenses.

While not passing directly on these items, they are here stated to show that the Commission's engineers were liberal in making their estimate. It will be noted that their estimate is \$2,904.26 in excess of the defendant's own estimate.

Neither of these items include an allowance for right of way. The testimony shows that defendant's lines are built partly on public streets and highways and partly over private land and that no right of way was ever purchased. A few dollars, however, were paid here and there for the privilege of erecting a pole on private property.

3. *Depreciated reproduction value.*

The defendant claims that the present value of its system is a full 100 per cent of the cost to reproduce the property. While large expenditures have recently been made for maintenance, it is clear that there are portions of the plant which are not covered by maintenance and repairs, and that these portions have depreciated in value, and that the per cent value of defendant's plant is by no means as great as the cost to reproduce it new.

The Kelley-Kenny report shows a depreciated reproduction value, leaving out the Stanislaus River line, of \$26,167.00, which amount is almost \$9,000.00 less than the amount claimed by the defendant. This result was secured by estimating the life of each portion of defendant's system, estimating the percentage of depreciation on a straight line basis as to each item and then multiplying the average annual percentage of depreciation as to each item by the number of years the item has been in service. The Commission's engineers report an average life of items of 5.2 years and an average condition per cent of 67 per cent. On the sinking fund theory of depreciation, assuming an average life of twenty years and a sinking fund basis at 4 per cent, the present condition of the property, assuming, however, that the average of

defendant's property is five years old, would be about 82 per cent, which percentage applied to the Kelly-Kenny estimate of cost to reproduce new would be \$31,178.04. In estimating the depreciated reproduction value, it should be borne in mind that the defendant has incurred unusually large expenditures for maintenance and repairs during the last few years and that it has rebuilt considerable portions of its system.

After a careful consideration of all the facts proper to be considered in this connection, I find as a fact that the fair value of the property of the defendant used and useful for the public service as disclosed by the evidence in this proceeding, is not to exceed the sum of \$32,500.00. It should be noted that this amount is within \$2,600.00 of the defendant's estimate to reproduce the property new, and that it is over 92 per cent of said amount and over 85 per cent of the Kelley-Kenny estimate to reproduce the property new.

To the amount so found should be added a further sum to cover the cost of meters which defendant is installing so as to do away with the flat rates. At the time of the hearing in this proceeding, defendant had 158 flat-rate customers. Assuming an allowance of \$12.50 to meter each customer, which is a liberal allowance, I find that the sum of \$1,975.00 should be added to the sum of \$32,500.00 hereinbefore allowed, making a total sum of not to exceed \$34,475.00 on which defendant is entitled to earn a reasonable return in connection with its public utility business.

This brings me to a consideration of the amount of return to be allowed to the defendant on this investment. In this connection I desire to quote from a portion of this Commission's opinion in the case of *City of Palo Alto vs. Palo Alto Gas Company*, Case No. 288, Decision No. 499, decided March 12, 1913, as follows:

No fixed percentage applicable to all cases and all classes of utilities can be established by this Commission. Each case must be judged on its own merits. It may well be that a utility in one community will be entitled to one rate of return while a similar concern in another community would be entitled to a different rate. It may be that a large and solidly established utility will not be entitled to as high a return as a smaller utility which is struggling against adverse circumstances. The most that can be said by way of general principles is that the return should be at least the average return which is earned by other classes of business of the same degree of hazard in the same community. California needs development by public utilities, and this Commission's policy should be a broad and liberal one, so as to encourage capital to develop the state by legitimate public utility enterprises where needed. The Commission should be careful not to permit an inflation of prices in ascertaining the value of the property of a public utility used and useful for the public purpose, but should be liberal in establishing the rate of return on that value."

The evidence in this proceeding shows that the prospect for an increase in business in the territory served by the defendant is not bright. It shows also that during the last year, by reason of the restriction of the hours of the night during which saloons may remain open, and other causes, defendant has actually been losing business. It appears, also, that during the year 1911, the defendant decreased its top rate for lighting purposes from 15 cents to 10 cents per kilowatt hour, and that it has suffered a loss of revenue by reason of this decrease. Bearing in mind these facts, as well as all the other facts shown by the evidence in this case, I am of the opinion that a rate of return of 8 per cent on the value of defendant's property used and useful for the public purpose, as fixed herein, is a fair and equitable rate of return. As will hereinafter be shown, the rates established by this Commission in this proceeding, unless there is further loss of business, will yield a return of about 11 6/10 per cent.

I shall now consider the charges against defendant's system.

Defendant has prepared a statement of disbursements year by year for the years 1910, 1911 and 1912, which statement is as follows:

Disbursements.

| | 1910. | 1911. | 1912. |
|--------------------------------------|--------------------|--------------------|--------------------|
| Salaries and wages..... | \$6,038 90 | \$4,784 00 | \$6,595 00 |
| Maintenance and repairs..... | 3,991 67 | 2,310 68 | 3,159 08 |
| General expense..... | 1,101 73 | 1,252 45 | 790 20 |
| Electric power..... | 4,753 77 | 5,699 51 | 5,398 99 |
| Office rent..... | 240 00 | 350 00 | 360 00 |
| Livery..... | 482 29 | 1,694 45 | 448 55 |
| Supplies..... | 3,455 33 | 3,339 85 | 3,521 39 |
| Lamps..... | 687 21 | 893 12 | 858 12 |
| Taxes and licenses..... | 808 75 | 717 48 | 1,226 33 |
| Equipment..... | 1,227 65 | 1,499 89 | 831 37 |
| Stationery..... | 157 49 | 49 44 | 105 74 |
| Office furniture..... | 302 65 | 227 50 | 5 50 |
| Legal expenses..... | 9 75 | 100 00 | 29 78 |
| Insurance..... | 31 70 | 35 00 | 183 60 |
| Miscellaneous..... | 143 90 | 235 00 | 10 00 |
| Paid Mrs. J. J. Crooks (profit)..... | 5,799 50 | 5,890 50 | 2,150 96 |
| Cash on hand December 31st..... | 1,493 06 | 78 22 | 427 27 |
| | \$30,725 47 | \$29,157 09 | \$26,101 78 |

I shall now proceed to analyze these expenditures item by item, with particular attention to expenditures for the year 1912.

1. Salaries and wages:

The item of \$6,595.00 for salaries and wages for the year 1912 is made up as follows:

| | |
|-----------------------------|-------------------|
| President's salary..... | \$2,000 00 |
| Manager's salary..... | 1,500 00 |
| Bookkeeper's salary..... | 600 00 |
| W. D. Bannister..... | 900 00 |
| Harry Comstock (labor)..... | 900 00 |
| Miscellaneous (labor)..... | 695 00 |
| Total | \$6,595 00 |

The evidence shows that the president of the company performs but slight services and that a salary of \$2,000.00 is entirely too large, if regarded as salary. Mr. Crooks, the president, and his wife together own 99 98/100 per cent of the outstanding capital stock. The larger portion of the president's salary should more properly be regarded as a dividend, to be added to the amount of \$2,150.96, being the next to the last item in the foregoing statement of disbursements and representing the dividend for the year 1912. As the president of the company performs some slight services, I am allowing \$200.00 per year for his salary. The salaries of manager and bookkeeper are reasonable and will be allowed. The salary of \$900.00 for W. D. Bannister should not be allowed in fixing rates for the reason that any compensation due to the Columbia Marble Company is liberally repaid by the business transacted for the Marble Company by the defendant's manager. The items of \$900.00 and \$695.00 for labor include a sum of \$545.55 in connection with the company's supply business. I shall nevertheless allow the sum of \$1,500.00 for labor. In addition to this sum, I shall allow \$190.00 to cover extra labor necessary for the installation and care of meters to take the place of the existing flat rates, making a total allowance of \$1,690.00 for labor.

2. Maintenance and repairs.

The defendant shows a total of \$3,159.08 for maintenance and repairs for the year 1912. This item includes heavy expenditures in reconstructing portions of defendant's system and representing largely items which are not items of annually recurring expense. The sum also includes certain small items for extensions properly chargeable to capital account. An allowance of 3 per cent of the present value of the property, amounting to \$1,034.25, will be made. A further allowance of the same amount will be made under the head of depreciation, as will hereinafter appear, so that a total for these two items will be \$2,068.50.

3. General expenses.

The defendant claims a general expense, in addition to office rent, insurance, livery, stationery and office supplies, and legal expenses of \$790.20. This item, besides the expense of men when working on the line, includes a considerable item for freight on merchandise shipped to the store at Sonora. I shall allow \$600.00 in addition to items for office rent, insurance, livery, stationery and office supplies, and also add thereto an amount of \$126.00 to cover additional expenses incidental to the elimination of flat rates, making a total of \$726.00 for miscellaneous general expenses other than the items hereinbefore stated.

4. Electric power.

In the year 1912, defendant paid \$5,398.99 for electric power. It is evident that when all of the consumers have been metered, the amount

of electric energy consumed will be considerably less than at present, so that the amount to be paid by defendant for electric energy will correspondingly decrease. On the basis of the electric energy now metered, the present flat-rate customers will, when metered, consume 6,693 $\frac{5}{10}$ kilowatt hours monthly. Adding this amount to the present metered consumption, aggregating an average of 15,530 kilowatt hours monthly, gives a total of 22,223 $\frac{5}{10}$ kilowatt hours monthly, or 266,682 kilowatt hours per year of electric energy to be sold by defendant. Allowing a loss of 25 per cent, the amount to be paid for by defendant will be about 355,576 kilowatt hours per year. At the rate of 1 $\frac{1}{2}$ cents per kilowatt hour, being the price paid by defendant to Sierra and San Francisco Power Company, the defendant's current would cost \$4,444.70, which amount I have allowed as the probable annual expenditure for this purpose.

5. Office rent.

The item of \$360.00 includes the rent of the salesroom for the defendant's supply business, and also such local space as is required by the Columbia Marble Company. I am allowing \$200.00 for defendant's utility business, which allowance I believe to be liberal.

6. Livery.

The item of \$448.55 seems to be reasonable. I am allowing \$450.00.

7. Supplies.

These are supplies used by defendant in its supply business. As before indicated, the item is not a proper one to be considered in connection with defendant's utility business. An allowance of \$456.00, however, has heretofore been made under the head of capital investment, to take care of such supplies as are necessary in connection with defendant's utility business.

8. Lamps.

This item refers also to defendant's supply business and is not proper to be considered in connection with defendant's business as a public utility.

9. Taxes and licenses.

Defendant claims for the year 1912 an expenditure for taxes and licenses amounting to \$1,226.33, which amount is over \$500.00 more than was paid in 1911, and over \$400.00 more than was paid in 1910. If applicant is paying taxes on its supply business, it has good ground for asking from the State Board of Equalization a reduction in future years. I have estimated state taxes at the rate of $\frac{4}{10}$ per cent of the gross allowance income of defendant for the ensuing year, amounting to \$744.90, and Federal corporation tax of 1 per cent of the gross allowable income in excess of \$5,000.00 per year, amounting to \$113.65, thus giving a total of \$858.55. The evidence showed that a merchandise license of \$40.00 per year is paid by defendant to the city of Sonora.

This item again is in connection with defendant's supply business and not its utility business.

10. Equipment.

This item also is in connection with the supply business.

11. Stationery and office furniture.

In 1912 the defendant expended \$111.24 on these items. While a portion of these expenditures were doubtlessly incurred in connection with the supply business, I am allowing \$100.00.

12. Legal expenses.

Defendant's legal expenses, amounting to \$9.75 in 1910, \$100.00 in 1911, and \$29.78 in 1912, have been considerably less than they might reasonably be. I am allowing \$200.00 for this item.

13. Insurance.

Defendant's insurance charge was \$31.70 for 1910, \$35.00 for 1911, and \$183.60 for 1912. Defendant claims that the increased charge in 1912 is due to accident insurance resulting from the employer's liability law of this State. The amount doubtlessly includes insurance on defendant's supplies, but I have no way of segregating the amount, and for that reason I am allowing the entire amount.

14. Cash on hand.

This item clearly is not a disbursement.

It now becomes necessary to consider two additional items for which allowance should be made.

15. Depreciation.

Defendant's statement contains no allowance for depreciation except in so far as it is covered by the item of maintenance and repairs. Under all the circumstances surrounding this plant, I consider that it would be fair to allow defendant an annual depreciation item of 3 per cent on the value of the property as hereinbefore found. I am accordingly allowing the sum of \$1,034.25.

16. Amortization of Stanislaus River line.

As hereinbefore indicated, defendant will be permitted to charge off the present value of its Stanislaus River line during the next ten years. Estimated on the percentage of value hitherto allowed in this proceeding, the present value of this line, based on the reproduction value estimate of the defendant, is \$3,166.91. On a 4 per cent sinking fund basis, the amount of \$263.77 should be allowed each year during the next ten years.

The following table shows reconstructed disbursements proper to be allowed to the defendant:

| | |
|---|-------------|
| Interest on investment..... | \$2,758 00 |
| General officers' salaries..... | 2,300 00 |
| Labor | 1,690 00 |
| Maintenance and repairs..... | 1,034 25 |
| Electric power purchased..... | 4,444 70 |
| General expenses: | |
| Office rent | \$200 00 |
| Livery | 450 00 |
| Stationery and office supplies..... | 100 00 |
| Insurance | 183 60 |
| Miscellaneous general expenses..... | 726 00 |
| | <hr/> |
| | 1,659 60 |
| Legal expense | 200 00 |
| Depreciation | 1,034 25 |
| Amortization—Stanislaus River line..... | 263 77 |
| Taxes | 741 72 |
| | <hr/> |
| Total | \$16,124 29 |

It now becomes necessary to establish the rates which shall yield a return not less than the above amount and which shall be fair and reasonable as between different amounts of electric energy consumed and different classes of consumers.

The Kelley-Kenny report shows that with reference to the electric energy sold through meters during the year 1912, the following average conditions prevailed:

| | |
|--|--------------------|
| Approximately 27½ per cent of all metered energy sold to consumers whose average December consumption was about..... | 34 kilowatt hours |
| Approximately 18½ per cent of all metered energy sold to consumers whose average December consumption was about..... | 108 kilowatt hours |
| Approximately 20½ per cent of all metered energy sold to consumers whose average December consumption was about..... | 206 kilowatt hours |
| Approximately 15½ per cent of all metered energy sold to consumers whose average December consumption was about..... | 388 kilowatt hours |
| Approximately 17½ per cent of all metered energy sold to consumers whose average December consumption exceeded..... | 500 kilowatt hours |

Under the conditions shown in the foregoing table, assuming annual sales amounting to 266,682 kilowatt hours, and allowing an ample margin of safety, we can be reasonably certain that the actual annual consumption of electric energy through meters will fall within the "blocks" shown in the following table:

| | |
|---|------------------------|
| Less than 50 kilowatt hours per month..... | 72,671 kilowatt hours |
| From 50 to 150 kilowatt hours per month..... | 49,336 kilowatt hours |
| From 150 to 300 kilowatt hours per month..... | 55,337 kilowatt hours |
| From 300 to 500 kilowatt hours per month..... | 42,002 kilowatt hours |
| Over 500 kilowatt hours per month..... | 47,336 kilowatt hours |
| | <hr/> |
| | 266,682 kilowatt hours |

The rates which will be allowed in the order herein as applied to these "blocks" will show the following results:

| | |
|---|-------------|
| First block, 72,671 kilowatt hours at 8 cents----- | \$5,813 70 |
| Second block, 49,336 kilowatt hours at 7 cents----- | 3,453 50 |
| Third block, 55,337 kilowatt hours at 6 cents----- | 3,320 20 |
| Fourth block, 42,002 kilowatt hours at 5 cents----- | 2,100 10 |
| Fifth block, 47,336 kilowatt hours at 4 cents----- | 1,893 45 |
| | <hr/> |
| | \$16,580 95 |

In other words, under the rates which this Commission will establish in this case, the defendant will receive from the sale of its electric energy an annual sum not less than \$16,580.95. By reason of the fact that the usual minimum charge of \$1.00 per month per meter will be allowed, the top rate of 8 cents per kilowatt hour will actually result in an average rate for the first "block" of approximately 8 9/10 cents per kilowatt hour, for the reason that a number of consumers will not consume as much as 12½ kilowatt hours each month per meter. This increase would accordingly cause an increase of about \$654.00 in the actual return to be received by the defendant, making a total revenue of \$17,234.95. As the total revenue hereinbefore estimated to be derived by the company was only \$16,244.12, it is evident that the rates herein established will yield to the company a revenue of \$990.83 in excess of the amount to which the company is clearly entitled, on the assumption that its business will not show a further decrease. This would represent a net return on the basis allowed for fixing of rates of over 10 8/10 per cent. The margin of safety of 2 8/10 per cent will take care of unusual operating expenses and of a possible decrease in business. It is an unusually large margin, but is granted so as to be sure that the Commission's order is fair to the defendant.

The rates established in the order establish a price for an initial amount consumed and a smaller price for additional "block" consumed. The application of these rates to the amounts of energy consumed is estimated to yield the revenue of \$16,580.95, hereinbefore referred to with the additional sums from the minimum.

The schedule established for street lighting will decrease the rate to be paid by the Jamestown lighting district from \$1.00 to 85 cents per lamp per month.

I submit herewith the following form of order:

ORDER.

The complaint and answer having been filed in the above entitled proceeding, and a public hearing having been held thereon, the Commission finds as a fact that:

1. The present rates charged by defendant for electric energy are excessive in so far as they exceed the rates hereinafter established; and

2. The rates hereinafter established to be charged by defendant for electric energy supplied in the territory served by it outside of the incorporated limits of the city of Sonora are just and reasonable rates.

Basing its order on the foregoing findings of fact and on the additional findings which appear in the opinion which precedes this order,

It is hereby ordered that within twenty (20) days from the date of service upon it of a copy of this opinion and order, the defendant shall give to this Commission written notice of its consent to the rates herein established and shall put such rates into full force and effect. The rates of charges to be charged by defendant outside of the incorporated limits of the city of Sonora are as follows:

Schedule "A."

Applicable to all energy consumed for lighting or power not otherwise specifically classified.

C. R. C. CLASSIFICATION: SERVICE 1111; RATE 0021; SERIAL No. 130703-1.

| | |
|--|---------------------------|
| First 50 kilowatt hours per month per meter----- | 8 cents per kilowatt hour |
| Next 100 kilowatt hours per month per meter----- | 6 cents per kilowatt hour |
| Next 150 kilowatt hours per month per meter----- | 4 cents per kilowatt hour |
| Next 200 kilowatt hours per month per meter----- | 2 cents per kilowatt hour |
| Minimum charge: \$1.00 per month per meter. | |

Schedule "B."

Applicable to general lighting or power service not otherwise specifically classified.

C. R. C. CLASSIFICATION: SERVICE 1111; RATE 0011; SERIAL No. 130703-2.

If consumption through one meter during any month exceeds 500 kilowatt hours, the rate shall be 4 cents per kilowatt hour.

Schedule "C."

Applicable to general commercial and industrial off-peak power.

C. R. C. CLASSIFICATION: SERVICE 1371; RATE 0025; SERIAL No. 130703-3.

| | |
|--|---------------------------|
| First 50 kilowatt hours per horsepower per month----- | 6 cents per kilowatt hour |
| Over 50 kilowatt hours per horsepower per month----- | 4 cents per kilowatt hour |
| All over 100 kilowatt hours per horsepower per month-- | 2 cents per kilowatt hour |
| Minimum charge: \$1.00 per horsepower per month. | |

Schedule "D."

Applicable to "all night" street lighting only.

C. R. C. CLASSIFICATION: SERVICE 1235; RATE 0200; SERIAL No. 130707-1.

| Connected load. | Rate per year per watt connected. |
|--|-----------------------------------|
| Less than $\frac{1}{4}$ kilowatt----- | 20 cents |
| $\frac{1}{4}$ kilowatt and less than $\frac{1}{2}$ kilowatt----- | 19 cents |
| $\frac{1}{2}$ kilowatt and less than 1 kilowatt----- | 18 cents |
| 1 kilowatt and less than 2 kilowatt----- | 17 cents |
| 2 kilowatt and less than 4 kilowatt----- | 16 cents |
| 4 kilowatt and less than 8 kilowatt----- | 15 cents |
| 8 kilowatt and over----- | 14 cents |

No bill to be rendered for less than \$12.00 per year.
Service to be paid for monthly.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 835.

IN THE MATTER OF THE APPLICATION OF WILLIAMS
WATER AND ELECTRIC COMPANY FOR PERMISSION TO
ESTABLISH A RATE FOR METERED WATER SERVICE.

Application No. 525.*Decided July 29, 1913.*

Application of Williams Water and Electric Company to establish a rate of \$1.00 minimum for first 1,000 gallons and 10 cents for each additional 1,000 gallons for metered water service granted.

C. K. Sweet, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for authority to establish a rate for metered water service. No such rate has hitherto been established.

Applicant serves water for domestic purposes only, including household uses and the sprinkling of lawns, streets and roads, to the inhabitants of the unincorporated town of Williams, in Colusa County. Applicant secures its water by pumping from a well and has about 98 customers.

The rates of applicant on file with this Commission are for flat rate service only. Applicant claims that some of its customers are using more water than is necessary and that the cost of pumping has been materially increased as the result of this excessive use. Applicant accordingly has been installing meters for customers who irrigate lawns and gardens. Twenty-two meters have been installed and applicant desires gradually to install some thirty more, as funds become available. Offices and stores will not be metered for the present, as very little water is being wasted by them.

Authority is now asked to put into effect a rate in addition to the existing flat rates, namely, a rate for metered service of \$1.00 per month minimum to cover the first 1,000 gallons or fraction thereof, with 10 cents for each additional 1,000 gallons or fraction thereof. The evidence shows that most of the present flat rate customers using water for irrigating lawns and gardens will not have their bills increased, even under their present consumption. A few consumers will have their bills raised, but it is only just that persons using a large amount of water should pay more than those using only a small amount. Applicant installs all meters and service connections at its own expense.

Applicant claims an original cost of its system of \$7,938.86, with a gross revenue for 1912 of \$1,444.78 and an operating expense of \$950.05. This sum does not include interest on investment, nor is any allowance for depreciation included therein, though the depreciation on a portion at least of the pipe is unusually large. The plant has been installed between three and four years. Its present value is undoubtedly less than the original cost, but it becomes unnecessary in this inquiry to pursue this subject further. No dividends have ever been paid.

I am convinced from the evidence that applicant's request is reasonable. While notice of the hearing was mailed to every consumer, no one appeared in opposition to the application. The proposed rate should be tried out. If any injustice or discrimination results therefrom, the matter may hereafter be brought to the attention of the Commission. I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Williams Water and Electric Company having applied for authority to establish an additional rate for water supplied to persons residing in Williams, California, namely, a rate of \$1.00 minimum for the first 1,000 gallons or fraction thereof, and 10 cents for each additional 1,000 gallons or fraction thereof, under meter, and notice of hearing having been given to each customer of applicant and a public hearing having been held on said application at Williams, California, and no one appearing in opposition thereto, and said application appearing reasonable,

It is hereby ordered that said application be and the same is hereby granted.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

DECISION No. 836.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE
PROPERTY OF THE TONOPAH AND TIDEWATER RAIL-
ROAD COMPANY WITHIN THE STATE OF CALIFORNIA.

Case No. 210.

Decided July 29, 1913.

Proceeding on motion of Commission to ascertain various elements entering into the value of respondent's property. Findings made as to facts but not on the question of the value of the property, irrespective of the purposes for which the value is ascertained. Opinion and findings in Case No. 206 referred to for general procedure in valuation cases.

Findings of fact: (1) That the reproduction value of the operative property of respondent, as of June 30, 1912, is the sum of \$2,650,143.35; (2) That the present value of the operative property of respondent, as of June 30, 1912, is the sum of \$2,304,075.03.

C. M. Rasor and H. Escherich, for Tonopah and Tidewater Railroad Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This proceeding was brought on the Railroad Commission's initiative for the purpose of ascertaining various elements entering into the value of the property of the Tonopah and Tidewater Railroad Company. For the general procedure in these so-called valuation cases and for a general description of the work performed by this Commission's engineering department in these cases reference is hereby made to this Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company. As in that case, so here also, I shall make findings of fact and shall not make findings on the elusive question of the value of the property, irrespective of the purposes for which the value is ascertained.

At the outset I desire to define certain terms which will be used herein.

The term "original book cost," as used in this opinion, means the actual expenditures chargeable to capital account in accordance with the classification of expenditures for road and equipment as prescribed by the Interstate Commerce Commission for steam roads, made by the railroad company for its operative property in the State of California, as of June 30, 1912.

The term "reproduction value," as used in this opinion, means the estimated cost in cash of acquiring the operative right of way and other real estate and of reproducing in the condition in which it was acquired the other physical property of the railroad company in the State of California, as of June 30, 1912, to which are added overhead expenditures for engineering, law, interest and commissions, and similar items.

The term "present value," as used in this opinion, means the "reproduction value" less the diminution in value of the physical elements of the property, due to use, age, obsolescence, inadequacy and other causes, plus appreciation where found. This might properly be called "depreciated reproduction value," and does not mean the ultimate fact of present value, as that term is ordinarily used.

In accordance with this Commission's order dated March 11, 1912, the Tonopah and Tidewater Railroad Company, on September 21, 1912, filed an inventory of its property in the State of California, together with a statement of its original book cost, and an estimate of its reproduction value and present value. At the hearing in this proceeding, the railroad company requested that certain changes be made in this statement, which changes are included in the railroad company's modified final summary sheet, which is attached to this opinion and marked "Exhibit A."

On December 16, 1912, this Commission's engineering department submitted its detailed report in the above proceeding, a copy of the final summary sheet whereof, as presented on said day, is attached hereto and marked "Exhibit B."

Thereafter, on April 28, 1913, the hearing was held in this proceeding. The railroad company was represented and made numerous objections to the report of this Commission's engineering department, particularly with reference to the department's estimate as to reproduction value and present value. The objections of the railroad company are embodied in a statement which was filed at the hearing, and marked "Exhibit A."

Thereafter, this Commission's engineering department prepared a revised statement increasing the estimated reproduction value of rails and track laying and surfacing, as will hereinafter appear in greater detail. Thereafter, the engineering department, acting under instructions of this Commission, made a second inspection of the present physical condition of the property, as a result whereof the estimated present value of the property has been materially increased, as will hereinafter appear. The Commission also made further investigation into other items of original book cost and reproduction value. A revised final summary sheet containing the Commission's findings is attached hereto and marked "Exhibit C."

As usual in these valuation proceedings I shall, in connection with this inquiry, consider the following matters:

1. Organization, construction and operation.
2. Stocks and bonds.
3. Revenues and expenses.
4. Original book cost.
5. Reproduction value.
6. Present value.

1. Organization, construction and operation.

The Tonopah and Tidewater Railroad Company was incorporated on July 15, 1904, under the laws of the State of New Jersey, primarily to furnish a rail outlet for the borax deposits in Death Valley, Inyo County, California. The railroad company has constructed a standard gauge main line railroad from a junction with the line of the Atchison, Topeka and Santa Fe Railway Company at Ludlow, in San Bernardino County, California, to the gold fields in Nye County, Nevada, and a standard gauge branch line railroad from Death Valley Junction to the borax deposits of the Pacific Coast Borax Company at Ryan, California.

Construction of the railroad was actively begun at Ludlow in the fall of 1905. Operation kept pace with construction. The completed line from Ludlow to Gold Center, Nevada, was placed in operation in December, 1907.

The mileage of the railroad company consists of 173.06 miles of single stem and 9.45 miles of yard tracks and sidings, making a total of 182.51 miles of all kinds of track. Of the single stem track, 166.08 miles of main line lie between Ludlow, California, and Gold Center, Nevada, and 6.98 miles of branch line lie between Death Valley Junction, California, and Ryan, California. Of the 166.08 miles of main line, 137.62 miles are in California and 28.46 are in Nevada. A tabulated statement showing all the owned lines by states and by main, branch and other tracks follows:

Tonopah and Tidewater Railroad Company mileage.

| Item. | California. | Nevada. | Total. |
|----------------------------|-------------|---------|--------|
| Main line | 137.62 | 28.46 | 166.08 |
| Branch line | 6.98 | | 6.98 |
| Total main and branch..... | 144.60 | 28.46 | 173.06 |
| Other track | 8.496 | .954 | 9.45 |
| Grand total | 153.096 | 29.414 | 182.51 |

Throughout a considerable extent in the State of California the railroad traverses barren and unproductive lands. The greater portion of its route in this State lies through what is known as the Mojave

Desert. There are but few agricultural possibilities along the line of the railroad. Its traffic depends almost entirely on the borax mines at Ryan and the gold fields in Nye County, Nevada.

2. Stocks and bonds.

The capital stock of the railroad company consists of 10,000 shares of common stock of the par value of \$100.00 each. The entire 10,000 shares were issued to the promoters of the railroad at par and charged originally to "right of way" and since June 30, 1912, to "organization." Practically none of the physical property of the railroad company was secured from the issue of this stock. It seems to have been issued mainly for promoters' services. The railroad company has authorized two bond issues. The first issue is dated November 1, 1905, and is for an authorized total of 500,000 pounds sterling (\$2,432,871.61.) These bonds are payable on July 1, 1960. They are guaranteed by the Borax Consolidated, Limited, of London, which company was to receive one half of 1 per cent annually in return of the guarantee. The interest originally, including this half of 1 per cent, was 5 per cent per annum. Since on or about January 1, 1912, the $\frac{1}{2}$ per cent per annum has been waived, so that the interest rate on the bonds is now $4\frac{1}{2}$ per cent. The bonds are secured by a deed of trust dated November 1, 1905, conveying all the railroad's real and personal property to the Mercantile Trust Company of New Jersey. The entire authorized issue was sold at par, but underwriting expenses to the amount of \$156,836.56 are carried on the railroad company's books as having been incurred in connection with the sale. The details of this item are not known to the railroad company nor to this Commission, and are to be found only in London. I do not pass on the reasonableness of this charge, but am simply stating such facts as the Commission has been able to ascertain in connection therewith. On September 1, 1907, a second issue of bonds, amounting to 250,000 pounds sterling (\$1,217,722.49) was authorized. These bonds are payable on July 1, 1960, and are also guaranteed by the Borax Consolidated, Limited. The bonds originally drew interest at the rate of $5\frac{1}{2}$ per cent per annum, including $\frac{1}{2}$ per cent to be paid to the Borax Consolidated, Limited, in return for its guarantee. The percentage for the guarantee has been waived since on or about June 30, 1910, so that such bonds of this authorization as have been issued are now paying interest at the rate of 5 per cent. Of this authorization, bonds of the face value of 175,000 pounds (\$852,472.49) have been issued. This issue is secured by a second lien on all the real and personal property of the railroad company under a deed of trust running to the trustee under the first issue.

The railroad company's books show that an underwriting expense of \$47,036.31 was incurred in connection with the sale of the bonds of the second issue, but no details are available. As usual in cases of this

kind. I am finding the facts in connection with the sale of stocks and bonds without passing on the weight to which those facts shall be entitled in any inquiry into rates or other matters.

3. Revenues and expenses.

The revenues and expenses of the railroad company for the year ending June 30, 1912, appear in the annual report of that company, on file with this Commission, as follows:

| | |
|---|--------------|
| Operating revenues..... | \$291,390 69 |
| Operating expenses..... | 197,329 51 |
| Net operating revenues..... | \$94,061 18 |
| Taxes accrued..... | 18,624 58 |
| Operating income..... | \$75,436 60 |
| Interest on securities, loans and accounts..... | 23,736 67 |
| Gross corporate income..... | \$99,173 27 |
| Deductions from gross corporate income: | |
| Hire of equipment..... | \$3,695 47 |
| Joint facilities..... | 5,670 53 |
| Interest accrued on funded debt..... | 155,810 16 |
| Other interest..... | 1,805 00 |
| Other deductions..... | 1,705 28 |
| Total deductions..... | \$168,686 44 |
| Net corporate loss..... | \$69,513 17 |

In ascertaining the amount of net corporate loss for the year, being \$69,513.17, no deductions other than \$6,429.73 on equipment appear to have been made for depreciation.

4. Original book cost.

The total original book cost, as reported by the railroad company, in its modified form, is \$3,573,673.67. The revised total original book cost as reported by this Commission's engineering department is \$2,772,728.38. Difference, \$800,945.29.

The chief items of difference consist in the following two items:

| | Railroad company. | Engineering department. |
|--------------------------------------|-------------------|-------------------------|
| I. C. C. 55—Other expenditures | \$1,030,857 47 | \$195,557 47 |
| I. C. C. 57—Stores and supplies..... | | 35,728 27 |

The railroad company's total of \$1,030,857.47 for "other expenditures" includes \$835,300.00 of its common capital stock, being the California proportion thereof, on a mileage basis and \$170,295.01 of underwriting expenses in connection with the sale of its bonds. Under the definition of "original book cost" herein used, only the latter item is properly chargeable to "original book cost." In finding the fact as to underwriting expenses, I do not desire to be understood as passing

on the question whether this item should properly be allowed in a rate fixing inquiry. No sum was originally reported by the railroad company for "stores and supplies," but \$35,728.27 has been allowed by the Commission's engineering department for this item.

I desire to draw attention to the fact that the form of the engineering department's final summary sheet is misleading with reference to the items of "engineering," "law expenses," "interest and commissions" and "contingencies" in so far as those items refer to original book cost. The department's return on "original book cost" represents accurately the expenditures actually incurred for these items. The percentages are applied only to "reproduction value" and "present value."

I find that the "original book cost," as heretofore defined, of the operative property of the Tonopah and Tidewater Railroad Company within the State of California as of June 30, 1912, is the sum of \$2,772,728.38.

5. **Reproduction value.**

The railroad company made an extended attack on the engineering department's estimate both as to "reproduction value" and "present value." The railroad company's objections are embodied in the statement which was filed at the hearing, and marked "Exhibit A," which statement has hereinbefore been referred to. The reproduction value estimate presented by the railroad company is \$2,809,396.02. The reproduction value estimate as originally presented by the Commission's engineering department is \$2,474,235.86, the difference being \$335,160.16.

I shall now comment on those items as to which I consider comment to be necessary under the head of "reproduction value."

(1) *Right of way and real estate.* This Commission's engineering department reported a "reproduction value" and also a "present value" of right of way, including all operative real estate, of \$5,682.00. This sum was arrived at in the following manner: The department first ascertained the present market value of the operative real property based on the fair average value of adjacent land. * * * This value, which is designated by the engineering department as "present market value," was found to be \$5,187.00. The department then applied to such of this land as was represented by purchases made by the company a multiple of $1\frac{1}{2}$, so as to include the added amount of money which the department estimated the railroad company would have to pay for the cost of acquisition and consequential damages by severance and otherwise, thus reaching the total of \$5,682.00. It appears that some 135 miles of the company's right of way in California were acquired from the government by filing the maps necessary in such

cases, and that not to exceed 10 miles of right of way were actually purchased.

Subsequent to the filing of the engineering department's report, the Supreme Court of the United States, on June 9, 1913, rendered its decision in the so-called "Minnesota Rate Cases." It appeared that while these cases were pending in the Federal courts below, the land commissioner of the railroad companies, after ascertaining the railroad value of the railway company's land, applied certain multiples ranging from 1.25 for terminal properties, to 3 for agricultural lands, in order to ascertain the "reproduction value" of the real estate owned by the railroad companies. The Master in said court allowed 75 per cent of the increase so claimed, on the ground that it was necessary to add items for cost of acquisition, consequential damages and value for railroad use in order to ascertain the actual cost of reproducing the real property. The Federal courts below upheld the addition of percentages to represent these items. Mr. Justice Hughes, in delivering the opinion of the Supreme Court as to what would be a fair basis for fixing rates, refused to apply said multiples, and also to allow so-called "overhead percentages," as will hereinafter appear. Referring to the increase represented by said multiples, the court says:

"The increase sought for 'railway value' in these cases is an increment over all outlays of the carrier and over the values of similar lands in the vicinity. It is an increment which can not be referred to any known criterion, but must rest on a mere expression of judgment which finds no proper test or standard in the transactions of the business world. It is an increment which in the last analysis must rest on an estimate of the value of the railroad use as compared with other business uses; it involves an appreciation of the returns from rates (when rates themselves are in dispute) and a sweeping generalization embracing substantially all the activities of the community. For an allowance of this character there is no warrant."

Continuing, the court expresses its conclusion on this branch of the case as follows:

"Assuming that the company is entitled to a reasonable share in the general prosperity of the communities which it serves, and thus to attribute to its property an increase in value, still the increase so allowed, apart from any improvements it may make, cannot properly extend beyond the fair average of a normal market value of land in the vicinity having a similar character. Otherwise we enter the realm of mere conjecture. We therefore hold that it was error to base the estimates of value of the right of way, yards and terminals upon the so-called 'railway value' of the property. The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity, without additions by

the use of multipliers, or otherwise, to cover hypothetical outlays. The allowances made below for a conjectural cost of acquisition and consequential damages must be disapproved; and, in this view, we also think it was error to add to the amount taken as the present value of the lands the further sums, calculated on that value, which were embraced in the items of 'engineering, superintendence, legal expenses,' 'contingencies' and 'interest during construction.' "

In applying this decision to proceedings such as the present one, the distinction between ascertaining the cost of reproducing a public utility's property and the proper sum to be used as a basis for fixing rates must be clearly borne in mind. An estimate of reproducing property is an estimate of a fact. This fact is ascertainable with reasonable accuracy. On the other hand, it by no means follows that if this fact be ascertained, the sum so found must be used as the basis for fixing rates. In ascertaining the proper basis on which a public utility is entitled to a return, the rate fixing body must consider all pertinent facts, including original cost, reproduction value, depreciated reproduction value and any other fact which may have bearing on the question of the proper basis of return in each particular case. In the *Minnesota Rate Cases* the Supreme Court found that it would not be fair to take as the basis for fixing rates the "reproduction value" of the real property as found by the lower courts. Under all the circumstances of the case, the Supreme Court found that the railroad companies would be receiving at least all to which they were entitled if they were given, in the rate fixing inquiry, a value "equal to the fair average market value of similar land in the vicinity, without additions by the use of multipliers, or otherwise, to cover hypothetical outlays." There is much reason in support of this ruling. The unearned increment of land is growing so rapidly that if public utilities in rate fixing inquiries were allowed not merely the fair average market value of similar lands in the vicinity, including the unearned increment, but also multiples in addition thereto, rates might soon go so high that it would be impossible for the public to pay them. It may well be that in rate fixing inquiries which may hereafter come before rate fixing bodies, both state and national, justice to the public may demand that the basis of return on real property shall be less even than the "fair average market value of similar land in the vicinity," including the unearned increment. If we bear clearly in mind the distinction between a fact, namely, the cost of reproducing real estate, and the entirely distinct matter of ascertaining the proper basis for fixing rates in any particular case, we shall not be led astray. As I am finding facts in this case, and not saying how they should be applied in a rate fixing inquiry, I find that the operative real property owned by the railroad company in this proceeding based on the "fair average market value of similar land in the

vicinity," is the sum of \$5,187.00 and that the cost to reproduce said property is the sum of \$5,682.00.

(2) *Grading.* The engineering department's estimate of reproduction of grading is \$669,061.24; the railroad company's estimate is \$605,981.91. Difference, \$63,079.33.

It thus appears that this Commission's engineering department has estimated a reproduction value for grading of \$63,079.33 in excess of the amount submitted by the railroad company as the original book cost. It appears that prior to 1907 and before the I. C. C. Classification went into effect, the railroad company charged to an account called "track" all expenses which were later segregated into accounts "grading," "ties," "rails," "fastenings," "ballast" and "track laying and surfacing." When the railroad company's appraisal in the present proceeding was made the company redistributed the account "track" but included in the account "grading" only such items as were clearly attributable to that account, and included under the other accounts items which might properly be included under the "grading" account. It appears that the total original book cost of grading, ballast and track laying and surfacing is \$871,519.99, and that the reproduction value as estimated by the engineering department, including increase in track laying and surfacing hereinafter referred to, is \$903,848.81, so that considering these three accounts together, the engineering department's estimate of reproduction value is only some \$32,328.82 in excess of the original book cost although the excess under the item of "grading" amounts to \$63,079.33. It also appears that the railroad company's roadway was graded in an economical manner and that the work could not be reproduced to-day for the money originally spent on the work by the company. I am satisfied to permit the engineering department's estimate for reproducing the grading to stand at \$669,061.24.

(3) *Rails.* The railroad company estimated the cost of reproducing its rails at \$490,076.86, being the original book cost thereof. This Commission's engineering department originally estimated the cost of reproducing the rails at \$399,689.07, being an amount of \$90,387.79 less than the railroad company's estimate. It seems that a large portion of the railroad company's rails are relay rails and that there are at present no such rails to be bought on the market for prices representing the real value thereof. Under these circumstances, an estimate of reproducing the relay rails in the condition in which they were originally acquired would result in an estimate in excess of the real value thereof. Subsequent to the hearing the engineering department prepared a supplemental report on reproduction value and present value of rails and of track laying and surfacing, increasing the estimate for rails by the sum of \$132,349.70. To this increase are added the usual percentages

for overhead charges, making a total increase of \$154,392.54. I am satisfied that under the facts of this case the engineering department's estimate as thus increased is fair and reasonable. It should be borne in mind, however, that this amount does not represent the cost of reproducing relay rails, for the simple reason that no relay rails are to be had in the market at a reasonable price. It has been necessary to estimate the cost of reproducing rails on the basis of new rails in a depreciated condition.

(4) *Track laying and surfacing.* The railroad company estimated the reproduction value of track laying and surfacing as \$223,676.76. This Commission's engineering department, in its original report, gave an estimate of \$180,892.70. It thus appears that the engineering department's estimate was \$42,784.06 lower than that of the railroad company. Subsequent to the hearing, the engineering department prepared a revised estimate of reproduction value of this item, increasing the reproduction value by \$18,443.27, and the present value by \$26,484.96. I am satisfied with these revised figures.

(5) *Contingencies.* The engineering department's estimate of 5 per cent for "contingencies" on all items except stores and supplies I consider to be very liberal. The testimony showed that practically all physical items were accounted for by the engineering department except some items under the head of grading, ballast and water stations. The total expenditure not accounted for under the head of water stations was only \$3,455.06. The total added for contingencies amounts to \$118,837.03. In my opinion it would be more accurate to estimate the contingencies on each item instead of allowing a gross sum, if the amount properly chargeable can be worked out by the engineering department. It will be found that on some items no contingencies can reasonably accrue while on others a liberal allowance must be made therefor. I shall allow 5 per cent in this case but feel that in doing so the Commission is more than liberal with the railroad company.

After careful consideration of all the evidence in the case bearing on the matter of "reproduction value," including the supplemental investigations which were conducted by the engineering department under this Commission's direction, I find the "reproduction value," as that term is herein defined, of the operative property of the Tonopah and Tidewater Railroad Company within the State of California as of June 30, 1912, to be the sum of \$2,650,143.35.

(6) *Present value.* The importance of determining a "present value" as distinguished from the "reproduction value" is emphasized by the opinion of the United States Supreme Court in the *Minnesota Rate Cases*. In that case it appeared that the Master, in ascertaining a basis for rate fixing, allowed the cost of reproduction new without any

deduction for depreciation. It was not denied that there was depreciation in fact, but the Master found that the depreciation was more than offset by appreciation in certain items. The Supreme Court refused to approve this disposition of the matter. Mr. Justice Hughes, in delivering the opinion of the court, points out that "the depreciation in question is not that which has been overcome by repairs and replacements, but is the actual existing depreciation in the plant as compared with the new one." He continues as follows: "It would seem to be inevitable that in many parts of the plant there should be such depreciation, as for example in old structures and equipment remaining on hand. And when an estimate of value is made on the basis of reproduction new, the extent of existing depreciation should be shown and deducted." He concludes this branch of the subject as follows: "And when particular physical items are estimated as worth so much new, if in fact they be depreciated, this amount should be found and allowed for. If this is not done, the physical valuation is manifestly incomplete. And it must be regarded as incomplete in this case."

At the hearing in this proceeding the railroad company complained that the engineering department's estimate of present value was unfair to the company in many respects. The Commission was not satisfied with the evidence presented on this question and accordingly directed its engineering department to make another inspection of the property and to pay particular attention to the present depreciated condition thereof. As a result of this inspection the engineering department has prepared a supplemental report on "present value," in which report it has increased its estimate of present value, in addition to the increases in rail and track laying and surfacing, in the amount of \$124,079.05. I shall now discuss some of these items in further detail.

(1) *Grading.* The engineering department originally allowed no appreciation for grading while the railroad company claimed 20 per cent appreciation. Whether appreciation should be allowed depended upon questions of fact as to which a dispute existed between the engineer of the railroad company and members of the engineering department of the Commission. The engineers for the engineering department contended that portions of the roadway had been blown and washed away while the engineer for the railroad company contended that there was actually more material in the roadbed than shown on the original profile. The reinspection of the roadbed has satisfied me that the roadbed is maintained in first-class condition and that an allowance of 8 per cent should be made for appreciation.

(2) *Timber structures and ties.* The engineering department in its original report used its average depreciation figures in estimating the depreciation of timber structures and ties of the railroad company. It

appears that the department was in error in applying these average percentages to the conditions of the present railroad for the reason that the life of timber in the locality traversed by this railroad company is considerably longer than the average in other localities. A reinspection of the ties, trestle timber and telegraph poles shows that while they are from five to seven years old no evidence of decay appears either above or below the ground. The only exceptions were unpeeled Oregon pine trestle piles, as to which dry rot has begun to set in. The ties are Oregon pine and have suffered almost no depreciation from age. The depreciation from wear is less than on average railroads, for the reason that only two trains daily run over the track. In view of these facts, and taking into consideration maintenance and renewal, the engineering department has prepared a revised estimate raising the percentage of present condition to condition new as follows:

Trestles and culverts (material and labor from 60 per cent to 70 per cent.

Ties (material only) from 55 per cent to 65 per cent.

Telegraph lines (material and labor) from 70 per cent to 75 per cent.

(3) *Rails.* The engineering department's estimate of "present value" of rails was raised as the result of the raise in "reproduction value." This raise, combined with a raise in the condition per cent from 71 per cent to 79 per cent, has resulted in a total increase of \$134,051.03. In my opinion this revised figure should stand.

(4) *Ballast.* The engineering department's original report depreciated this account to 75 per cent of the reproduction value on an assumed 20-year life for ballast. This estimate is erroneous for the reason that it does not take into consideration the fact that additional ballast was placed on this railroad, which brought the condition of the ballast up to its original condition of 100 per cent. The "present value" of ballast should be based on a condition of 100 per cent.

(5) *Track laying and surfacing.* I am satisfied with the engineering department's revised report increasing the present value of track laying and surfacing in the sum of \$26,494.96.

The total result of the increases hereinbefore indicated will be to raise the estimated "present value" of the railroad company's property in this state, as the term "present value" is herein defined, from the engineering department's original estimate of \$2,008,289.05 to \$2,304,075.03, being an increase of \$295,785.98. Almost half of this difference is accounted for by the fact that the engineering department in making its estimate relied on average percentages of depreciation and applied them to conditions which are not average. It is the Commission's aim in all these cases to make findings which shall be fair and just

as applied not to some average railroad, but rather to the particular railroad which is the subject of the Commission's investigations. Average unit prices and average percentages of depreciation are of very great value as a basis in this work, but they must be modified where the conditions are not average, if this Commission is to be fair to each particular railroad.

I find that the present value, as that term is herein defined, of the operative property of the Tonopah and Tidewater Railroad Company in the State of California, as of June 30, 1912, is the sum of \$2,304,075.03.

The findings herein made refer to California mileage.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of July, 1913.

EXHIBIT "A."

Entire line in California.

Name of owner, Tonopah and Tidewater Railroad Company; operating company, same; from Ludlow to N. state line; miles main line track, 141.60; miles yard tracks, etc., 8.49; total, 150.09.
Valuation as of June 30, 1912; C. M. Rasor, field inspector; H. Escherich, office compiler; date compiled, September 19, 1912.

| Class No. | Form No. | I. C. C. Act No. | Classes. | Original book cost. | Reproduction value. | Cond. per cent. | Present value. |
|---|----------|------------------|---|---------------------|---------------------|-----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds..... | \$728 02 | \$35,157 80 | ----- | \$35,157 80 |
| 2 | 2 | 3 | Real estate..... | 2,087 25 | 2,429 45 | ----- | 2,429 45 |
| 3 | 3 | 4 | Grading..... | 605,981 91 | 605,981 91 | ----- | 727,117 00 |
| 4 | 4 | 5 | Tunnels..... | ----- | ----- | ----- | ----- |
| 5 | 5 | 6 | Steel bridges and trusses..... | ----- | ----- | ----- | 98,571 50 |
| 6 | 6 | 6 | Pile and frame trestles..... | 104,440 70 | 114,538 12 | ----- | 98,571 50 |
| 7 | 7 | 6 | Culverts..... | 19,786 22 | 21,666 85 | ----- | 17,776 00 |
| 8 | 8 | 7 | Ties..... | 343,515 81 | 334,279 16 | ----- | 237,000 00 |
| 9 | 9 | 8 | Rails..... | 490,076 86 | 490,076 86 | ----- | 490,076 86 |
| 10 | 10 | 9 | Frogs and switches..... | 8,565 80 | 8,565 80 | ----- | 7,776 00 |
| 11 | 11 | 10 | Track fastenings and other material..... | 94,297 16 | 102,484 22 | ----- | 92,226 00 |
| 12 | 12 | 11 | Ballast..... | 41,861 32 | 41,861 32 | ----- | 50,226 00 |
| 13 | 13 | 12 | Tracklaying and surfacing..... | 223,676 76 | 223,676 76 | ----- | 223,676 76 |
| 14 | 14 | 13 | Roadway tools..... | 4,399 92 | 4,399 92 | ----- | 3,877 00 |
| 15 | 15 | 14 | Fencing right of way..... | ----- | ----- | ----- | 500 00 |
| 16 | 16 | 15 | Crossings and signs..... | 636 00 | 636 00 | ----- | 3,000 00 |
| 17 | 17 | 16 | Interlocking plants..... | 3,340 18 | 3,340 18 | ----- | 100 00 |
| 18 | 18 | 16 | Signal apparatus..... | 193 20 | 193 20 | ----- | 18,378 00 |
| 19 | 19 | 17 | Telegraph and telephone lines..... | 19,930 63 | 19,930 63 | ----- | 15,000 00 |
| 20 | 20 | 18 | Station buildings and fixtures..... | 16,583 85 | 16,583 85 | ----- | ----- |
| 21 | 21 | 18 | Platforms, walks, paving and curb..... | ----- | ----- | ----- | 681 00 |
| 22 | 22 | 19 | General office buildings and fixtures..... | 844 32 | 844 32 | ----- | 4,800 00 |
| 23 | 23 | 20 | Shop buildings and engine houses..... | 5,894 20 | 5,894 20 | ----- | ----- |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc..... | ----- | ----- | ----- | ----- |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures..... | 3,181 87 | 3,181 87 | ----- | 2,580 00 |
| 26 | 26 | 21 | Shop machinery and tools..... | 15,701 75 | 15,701 75 | ----- | 12,085 00 |
| 27 | 27 | 22 | Water stations..... | 13,992 26 | 13,992 26 | ----- | 12,375 00 |
| 28 | 28 | 23 | Fuel stations..... | 1,925 50 | 1,925 50 | ----- | 1,880 00 |
| 29 | 29 | 24 | Grain elevators..... | ----- | ----- | ----- | ----- |
| 30 | 30 | 25 | Storage warehouses..... | ----- | ----- | ----- | ----- |
| 31 | 31 | 26 | Dock and wharf property..... | ----- | ----- | ----- | ----- |
| 32 | 32 | 27 | Electric light plants..... | ----- | ----- | ----- | ----- |
| 33 | 33 | 28 | Electric power plants..... | ----- | ----- | ----- | ----- |
| 34 | 34 | 29 | Electric power transmission..... | ----- | ----- | ----- | ----- |
| 35 | 35 | 30 | Gas producing plants..... | ----- | ----- | ----- | ----- |
| 36 | 36 | 31 | Miscellaneous structures..... | 18,321 09 | 18,321 09 | ----- | 15,549 00 |
| Total classes 1 to 36, inclusive..... | | | | \$2,039,962 58 | \$2,086,665 02 | ----- | \$2,073,016 00 |
| 37 | --- | 1 | Engineering, 7.19 per cent, 1 to 36, inclusive..... | 146,829 58 | 146,829 58 | ----- | 146,829 58 |
| 38 | 37 | 32 | Transportation of men and material..... | 1,461 70 | 2,693 00 | ----- | 2,693 00 |
| 39 | 38 | 33 | Rent of equipment..... | 7,898 58 | 7,898 58 | ----- | 7,898 58 |
| 40 | 38 | 34 | Repairs of equipment..... | 19,427 78 | 19,427 78 | ----- | 19,427 78 |
| 41 | --- | 35 | Earning and operating expenses during construction..... | 2,618 84 | ----- | ----- | ----- |
| 42 | --- | 35 1/2 | Injuries to persons..... | 275 10 | ----- | ----- | ----- |
| 43 | --- | 36 | Cost of road purchased..... | ----- | ----- | ----- | ----- |
| Total classes 1 to 43, inclusive..... | | | | \$2,213,146 48 | \$2,262,331 96 | ----- | \$2,240,855 00 |
| 44 | 39 | 37 | Steam locomotives..... | 89,224 15 | 94,217 36 | ----- | 58,485 00 |
| 45 | --- | 38 | Electric locomotives..... | ----- | ----- | ----- | ----- |
| 46 | 40 | 39 | Passenger train cars..... | 37,454 55 | 43,180 88 | ----- | 25,399 00 |
| 47 | 41 | 40 | Freight train cars..... | 21,340 42 | 30,652 18 | ----- | 14,350 00 |
| 48 | 42 | 41 | Work equipment..... | 3,540 18 | 5,096 55 | ----- | 2,924 25 |
| 49 | 43 | 42 | Floating equipment..... | ----- | ----- | ----- | ----- |
| Total classes 1 to 49, inclusive..... | | | | \$2,364,706 78 | \$2,435,478 93 | ----- | \$2,359,844 47 |
| 50 | --- | 43 | Law expenses, 0.36 per cent, classes 1 to 36, inclusive..... | 8,472 34 | 8,472 24 | ----- | 630 44 |
| 51 | 44 | 44 | Stationery and printing..... | 630 44 | 630 44 | ----- | ----- |
| 52 | 44 | 45 | Insurance..... | ----- | ----- | ----- | 7,824 43 |
| 53 | 45 | 46 | Taxes..... | 7,824 43 | 7,824 43 | ----- | ----- |
| Total classes 1 to 53, inclusive..... | | | | \$2,381,632 09 | \$2,452,406 14 | ----- | \$2,367,791 08 |
| 54 | --- | 47 | Interest and commission, 6.77 per cent, classes 1 to 53, inclusive..... | 161,183 21 | 161,183 21 | ----- | 161,183 21 |
| 55 | 45 | 48 | Other expenditures..... | 1,040,857 47 | 195,557 47 | ----- | 195,557 47 |
| 56 | --- | --- | Contingencies, .. per cent, classes 1 to 53, inclusive..... | ----- | ----- | ----- | ----- |
| 57 | 46 | --- | Stores and supplies on hand for use in California..... | ----- | ----- | ----- | ----- |
| Grand total..... | | | | \$3,573,573 67 | \$2,809,146 82 | ----- | \$2,724,532 36 |
| Average per mile for main line track..... | | | | ----- | ----- | ----- | ----- |

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EXHIBIT "B."

Name of owner, Tonopah and Tidewater Railroad Company; operating company, same; entire line in California; from Fullow to Nevada line; miles main line track, 111.6; miles yard tracks, etc., 8.6; total, 120.2.
Valuation as of June 30, 1912; M. M. Cooke, field inspector and office compiler; joint yard track, etc., 0.75.

| Class. | Original book cost. | Reproduction value. | Cond. per cent. | Present value. |
|---|---------------------|---------------------|-----------------|----------------|
| 1 1 2 Right of way and station grounds..... | \$1,275 85 | \$5,682 00 | 100 | \$5,682 00 |
| 2 2 3 Real estate | | | | |
| 3 3 4 Grading | 605,981 91 | 669,061 24 | 100 | 669,061 24 |
| 4 4 5 Tunnels | | | | |
| 5 5 6 Steel bridges and trusses..... | | | | |
| 6 6 6 Pile and frame trestles..... | 104,440 70 | 93,800 73 | 60 | 53,334 44 |
| 7 7 6 Culverts | 19,786 22 | 16,173 05 | 60 | 9,703 82 |
| 8 8 7 Ties | 343,515 81 | 341,166 13 | 55 | 187,641 37 |
| 9 9 8 Rails | 400,076 86 | 399,689 07 | 71 | 284,988 60 |
| 10 10 9 Frogs and switches..... | 8,565 80 | 10,688 87 | 88 | 9,414 99 |
| 11 11 10 Track fastenings and other material..... | 94,297 16 | 94,543 27 | 75 | 71,316 26 |
| 12 12 11 Ballast | 41,861 32 | 35,451 60 | 75 | 26,588 70 |
| 13 13 12 Tracklaying and surfacing..... | 223,676 76 | 180,892 70 | 68 | 123,007 02 |
| 14 14 13 Roadway tools | 4,399 92 | 4,399 92 | 88 | 3,879 67 |
| 15 15 14 Fencing right of way..... | | | | |
| 16 16 15 Crossings and signs..... | 636 00 | 758 66 | 60 | 455 40 |
| 17 17 16 Interlocking plants | 3,340 18 | 3,340 18 | 76 | 2,538 54 |
| 18 18 16 Signal apparatus | 193 20 | 193 20 | 100 | 193 20 |
| 19 19 17 Telegraph and telephone lines..... | 19,930 63 | 15,904 87 | 70 | 11,133 02 |
| 20 20 15 Station buildings and fixtures..... | 12,594 66 | 11,327 29 | 90 | 10,216 09 |
| 21 21 18 Platforms, walks, paving and curb..... | | | | |
| 22 22 19 General office buildings and fixtures..... | 1,010 18 | 1,010 51 | 84 | 848 83 |
| 23 23 20 Shop buildings and engine houses..... | 5,894 20 | 6,320 41 | 81 | 5,148 08 |
| 24 24 20 Transfer and turntables, cinder pits, etc..... | | | | |
| 25 25 20 Miscellaneous shop buildings and structures..... | | | | |
| 26 26 21 Shop machinery and tools..... | 3,181 87 | 2,985 02 | 77 | 2,300 22 |
| 27 27 22 Water stations | 15,701 75 | 17,035 74 | 76 | 12,944 31 |
| 28 28 23 Fuel stations | 13,592 26 | 10,537 50 | 75 | 7,889 43 |
| 29 29 24 Grain elevators | 1,925 50 | 1,692 30 | 75 | 1,303 60 |
| 30 30 25 Storage warehouses | | | | |
| 31 31 26 Dock and wharf property..... | | | | |
| 32 32 27 Electric light plants..... | | | | |
| 33 33 28 Electric power plants..... | | | | |
| 34 34 29 Electric power transmission..... | | | | |
| 35 35 30 Gas producing plants..... | | | | |
| 36 36 31 Miscellaneous structures | 22,310 28 | 22,481 70 | 77 | 17,420 14 |
| Total classes 1 to 36, inclusive..... | \$2,038,589 02 | \$1,945,435 66 | | \$1,520,081 37 |
| 37 37 1 Engineering, 5 per cent, 1 to 36, inclusive..... | 155,596 31 | 97,271 79 | 100 | 97,271 79 |
| 38 38 32 Transportation of men and material..... | 1,461 70 | | | |
| 39 39 33 Rent of equipment..... | 7,898 58 | | | |
| 40 40 34 Repairs of equipment..... | 19,427 78 | | | |
| 41 41 35 Earning and operating expenses during construction..... | 2,618 84 | | | |
| 42 42 35 Injuries to persons..... | 275 10 | | | |
| 43 43 36 Cost of road purchased..... | | | | |
| Total classes 1 to 43, inclusive..... | \$2,220,449 65 | \$2,042,707 45 | | \$1,617,353 16 |
| 44 44 37 Steam locomotives | 89,224 15 | 89,209 53 | 74 | 65,573 20 |
| 45 45 38 Electric locomotives | | | | |
| 46 46 39 Passenger train cars..... | 37,454 55 | 37,454 55 | 74 | 27,943 32 |
| 47 47 40 Freight train cars..... | 21,340 42 | 21,340 42 | 68 | 14,511 22 |
| 48 48 41 Work equipment | 3,540 18 | 3,540 18 | 82 | 2,924 42 |
| 49 49 42 Floating equipment | | | | |
| Total classes 1 to 49, inclusive..... | \$2,372,008 95 | \$2,194,252 13 | | \$1,728,305 32 |
| 50 50 43 Law expenses, 1 per cent, classes 1 to 36, inclusive..... | 8,472 34 | 21,942 52 | 100 | 21,942 52 |
| 51 51 44 Stationery and printing..... | 630 44 | 630 44 | 100 | 630 44 |
| 52 52 45 Insurance | | | | |
| 53 53 46 Taxes | 7,824 43 | | | |
| Total classes 1 to 53, inclusive..... | \$2,388,936 16 | \$2,216,252 09 | | \$1,750,878 28 |
| 54 54 47 Interest and commission, 5 per cent, classes 1 to 53, inclusive..... | 139,015 74 | 110,841 25 | 100 | 110,841 25 |
| 55 55 48 Other expenditures | 35,981 14 | | | |
| 56 56 48 Contingencies, 5 per cent, classes 1 to 53, inclusive..... | | 110,841 25 | 100 | 110,841 25 |
| 57 57 48 Stores and supplies on hand for use in California..... | 35,728 27 | 35,728 27 | 100 | 35,728 27 |
| Grand total | \$2,599,661 31 | \$2,474,235 86 | 81 | \$2,008,280 05 |
| Average per mile for main line track..... | 17,978 30 | 17,110 90 | | 13,888 50 |

EXHIBIT "C."

Name of owner, Tonopah and Tidewater Railroad Company; operating company, same; entire line in California from Ludlow to Nevada line; miles main line track, 144.6; miles yard tracks, etc., 8.6; total, 153.2.
Valuation as of June 30, 1912; Richard Sachse, field inspector and office compiler; date compiled, June 18, 1913.
Joint yard track, etc., 0.75.

| Class No. | Form No. | I. C. C. Act No. | Classes. | Original book cost. | Reproduction value. | Cond. per cent. | Present value. |
|-----------|----------|------------------|---|---------------------|---------------------|-----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds..... | \$1,275 85 | \$5,682 00 | 100 | \$5,682 00 |
| 2 | 2 | 3 | Real estate | | | | |
| 3 | 3 | 4 | Grading | 605,981 91 | 609,061 24 | 108 | 724,405 17 |
| 4 | 4 | 5 | Tunnels | | | | |
| 5 | 5 | 6 | Steel bridges and trusses | | | | |
| 6 | 6 | 6 | Pile and frame trestles | 104,440 70 | 98,890 73 | 70 | 65,723 51 |
| 7 | 7 | 6 | Culverts | 19,786 22 | 16,173 05 | 70 | 11,321 14 |
| 8 | 8 | 7 | Ties | 343,515 81 | 341,166 13 | 65 | 221,757 99 |
| 9 | 9 | 8 | Rails | 490,076 86 | 532,088 77 | 79 | 419,019 63 |
| 10 | 10 | 9 | Frogs and switches | 8,565 80 | 10,698 87 | 88 | 9,414 99 |
| 11 | 11 | 10 | Track fastenings and other material | 94,297 16 | 94,543 27 | 75 | 71,316 26 |
| 12 | 12 | 11 | Ballast | 41,861 32 | 35,451 60 | 100 | 35,451 60 |
| 13 | 13 | 12 | Tracklaying and surfacing | 223,676 76 | 199,335 97 | 75 | 149,501 98 |
| 14 | 14 | 13 | Roadway tools | 4,399 92 | 4,399 92 | 88 | 3,870 07 |
| 15 | 15 | 14 | Fencing right of way | | | | |
| 16 | 16 | 15 | Crossings and signs | 636 00 | 758 66 | 60 | 455 40 |
| 17 | 17 | 16 | Interlocking plants | 3,340 18 | 3,340 18 | 76 | 2,538 54 |
| 18 | 18 | 16 | Signal apparatus | 193 20 | 193 20 | 100 | 193 20 |
| 19 | 19 | 17 | Telegraph and telephone lines | 19,930 63 | 15,904 87 | 75 | 11,928 65 |
| 20 | 20 | 18 | Station buildings and fixtures | 12,594 66 | 11,527 29 | 90 | 10,316 09 |
| 21 | 21 | 18 | Platforms, walks, paving and curb | | | | |
| 22 | 22 | 19 | General office buildings and fixtures | 1,010 18 | 1,010 51 | 84 | 848 83 |
| 23 | 23 | 20 | Shop buildings and engine houses | 5,894 20 | 6,320 41 | 81 | 5,148 08 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc. | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures | 3,181 87 | 2,985 02 | 77 | 2,300 22 |
| 26 | 26 | 21 | Shop machinery and tools | 15,701 75 | 17,035 74 | 76 | 12,946 31 |
| 27 | 27 | 22 | Water stations | 13,992 26 | 10,537 20 | 75 | 7,889 43 |
| 28 | 28 | 23 | Fuel stations | 1,925 50 | 1,692 30 | 75 | 1,303 60 |
| 29 | 29 | 24 | Grain elevators | | | | |
| 30 | 30 | 25 | Storage warehouses | | | | |
| 31 | 31 | 26 | Dock and wharf property | | | | |
| 32 | 32 | 27 | Electric light plants | | | | |
| 33 | 33 | 28 | Electric power plants | | | | |
| 34 | 34 | 29 | Electric power transmission | | | | |
| 35 | 35 | 30 | Gas producing plants | | | | |
| 36 | 36 | 31 | Miscellaneous structures | 22,310 28 | 22,481 70 | 77 | 17,420 14 |
| 37 | --- | 1 | Total classes 1 to 36, inclusive..... | \$2,068,580 92 | \$2,096,228 63 | | \$1,790,752 83 |
| 38 | 37 | 32 | Engineering, 5 per cent, 1 to 36, inclusive | 146,829 58 | 104,811 43 | 100 | 104,811 43 |
| 39 | 38 | 33 | Transportation of men and material | 1,461 70 | | | |
| 40 | 38 | 34 | Rent of equipment | 7,808 58 | | | |
| 41 | 38 | 35 | Repairs of equipment | 19,427 78 | | | |
| 42 | --- | 35 1/2 | Earning and operating expenses during construction | 2,618 84 | (Credit) | | |
| 43 | --- | 36 | Injuries to persons | 275 10 | | | |
| 44 | 39 | 37 | Cost of road purchased | | | | |
| 45 | --- | 38 | Total classes 1 to 43, inclusive..... | \$2,211,772 92 | \$2,201,040 06 | | \$1,895,564 26 |
| 46 | 40 | 38 | Steam locomotives | 89,224 15 | 89,209 53 | 74 | 65,573 20 |
| 47 | 41 | 40 | Electric locomotives | | | | |
| 48 | 41 | 40 | Passenger train cars | 37,454 55 | 37,454 55 | 74 | 27,943 32 |
| 49 | 42 | 41 | Freight train cars | 21,340 42 | 21,340 42 | 68 | 14,511 22 |
| 50 | 43 | 42 | Work equipment | 3,540 18 | 3,540 18 | 82 | 2,924 42 |
| 51 | --- | 43 | Floating equipment | | | | |
| 52 | --- | 44 | Total classes 1 to 49, inclusive..... | \$2,363,832 22 | \$2,352,584 74 | | \$2,006,516 42 |
| 53 | 44 | 44 | Law expenses, 1 per cent, classes 1 to 49, inclusive | 8,472 34 | 23,525 84 | 100 | 23,525 84 |
| 54 | 44 | 45 | Stationery and printing | 630 44 | 630 44 | 100 | 630 44 |
| 55 | 45 | 46 | Insurance | | | | |
| 56 | 46 | 46 | Taxes | 7,824 43 | | | |
| 57 | --- | 47 | Total classes 1 to 53, inclusive..... | \$2,380,259 43 | \$2,376,741 02 | | \$2,030,672 70 |
| 58 | 45 | 48 | Interest and commission, 5 per cent, classes 1 to 53, inclusive | 161,183 21 | 118,837 03 | 100 | 118,837 03 |
| 59 | --- | 49 | Other expenditures | 195,557 47 | | | |
| 60 | --- | 50 | Contingencies, 5 per cent, classes 1 to 53, inclusive | | 118,837 03 | 100 | 118,837 03 |
| 61 | 46 | --- | Stores and supplies on hand for use in California | 35,728 27 | 35,728 27 | 100 | 35,728 27 |
| 62 | --- | --- | Grand total | \$2,772,728 38 | \$2,650,143 35 | 87 | \$2,304,075 03 |
| 63 | --- | --- | Average per mile for main line track..... | 19,175 16 | 18,327 41 | | 15,934 13 |

DECISION No. 837.

IN THE MATTER OF THE APPLICATION OF CITRUS BELT GAS COMPANY TO BUY A SYSTEM OF GAS PLANTS AND TO ISSUE STOCK, BONDS AND NOTES; AND P. J. DUBBELL TO SELL A SYSTEM OF GAS PLANTS.

Application No. 359.

Decided July 30, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having on April 28, 1913, issued an order authorizing Citrus Belt Gas Company to buy a system of gas plants and to issue stocks and notes, and to assume bonds; and authorizing P. J. Dubbell to sell said system of gas plants, and said authorization having been made applicable only to such notes and stock as might be issued before January 1, 1914; and Citrus Belt Gas Company and P. J. Dubbell having applied to this Commission on July 14, 1913, asking that the effective date of said order be suspended for twelve (12) months on the ground that ways and means have been devised since said order was issued substantially altering the obligations proposed to be assumed by said Citrus Belt Gas Company,

It is hereby ordered that the authorization heretofore given in the above entitled matter in Decision No. 615, be extended for six (6) months, and that said authorization shall apply to such notes and stock as shall have been issued before June 30, 1914.

It is further ordered that the requirement as contained in Decision No. 615, in the above entitled matter, that Citrus Belt Gas Company should file within ninety (90) days a statement showing the number of shares of stock it proposes to issue to each person, firm, or corporation, under said order, and the basis on which it proposes to pay fractions of two hundred dollars (\$200), as provided in said order, is hereby amended, and the time in which Citrus Belt Gas Company shall file such statement is hereby extended to June 30, 1914.

It is hereby ordered that before Citrus Belt Gas Company shall sell or dispose of any portion of its property, or shall sell or dispose of any of the stocks, bonds, or notes, held in its treasury on April 28, 1913, or shall pay or discharge any of the claims listed with this Commission and appearing in the order of this Commission in the above entitled matter, in the aggregate sum of \$403,006.63, it shall file with this Commission a

statement which shall show the property to be sold and the price to be received therefor; the stock, bonds, or notes to be sold, and the price to be received therefor; and the claims to be paid or discharged, and the conditions upon which such claims are to be paid or discharged.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of July, 1913.

DECISION No. 838.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA
GAS AND POWER COMPANY FOR PERMISSION TO
RENEW A NOTE IN THE SUM OF ONE THOUSAND
DOLLARS.

Application No. 648.

Decided July 30, 1913.

REPORT OF THE COMMISSION.

Santa Maria Gas and Power Company having applied to this Commission for authority to issue a demand note in the sum of \$1,000.00 to R. E. Easton and T. B. Adam with interest at 6 per cent per annum, for the purpose of discharging a similar note of \$1,000.00 dated July 16, 1912,

It is hereby ordered that Santa Maria Gas and Power Company be given authority and it is hereby given authority to issue its demand note in the sum of \$1,000.00 with interest at 6 per cent per annum, to R. E. Easton and T. B. Adam, said note to be issued only after the cancellation of the aforesaid note to R. E. Easton and T. B. Adam dated July 16, 1912.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of July, 1913.

DECISION No. 839.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC
LIGHT AND POWER CORPORATION FOR AN ORDER
AUTHORIZING THE ISSUE OF STOCK.

Application No. 619.

Decided July 30, 1913.

Applicant asks permission to issue \$2,500,000.00 face value of first preferred capital stock, proceeds to be used in completing its hydroelectric plant at Big Creek.
Held, application granted, subject to certain conditions.

S. M. Haskins, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Pacific Light and Power Corporation for an order authorizing the issue of \$2,500,000.00 par value of first preferred capital stock.

Applicant is an electrical corporation generating electricity and distributing it in portions of the counties of Los Angeles, Orange, Riverside and San Bernardino and cities and towns in that territory. The condition of its capitalization is as follows:

STOCK.

Authorized:

| | |
|------------------------|----------------|
| First preferred ----- | \$5,000,000 00 |
| Second preferred ----- | 10,000,000 00 |
| Common ----- | 25,000,000 00 |

Issued:

| | |
|------------------------|---------------|
| First preferred ----- | 1,182,000 00 |
| Second preferred ----- | 9,975,000 00 |
| Common ----- | 10,579,500 00 |

BONDS.

| | |
|------------------|---------------|
| Authorized ----- | 48,800,000 00 |
| Issued ----- | 20,737,000 00 |

Applicant shows net corporate income for the last fiscal year after deducting fixed charges of \$619,136.16, and deducting 6 per cent dividends on the outstanding first preferred capital stock at December 31, 1912, would leave \$548,216.16 available for the payment of dividends on the stock herein proposed to be issued.

Applicant proposes to sell the stock herein asked to be authorized for 80 per cent of par, which will produce \$2,000,000.00 cash, and to expend these proceeds upon its Big Creek project, which is a hydroelectric development, the total estimated cost of which is \$12,230,000.00, on

which there has been expended to June 1, 1913, \$8,606,739.00, leaving a balance required to complete this project of \$3,623,261.00.

Applicant's representatives testified that since the filing of the application herein, moneys have been expended out of income for the purposes set out in the application as those for which the money received from the sale of the stock herein asked to be authorized are to be used, and it is requested that as to such expenditures the treasury be reimbursed out of the proceeds of the sale of this stock. Representatives of applicant testified that the value of its property exceeds the amount of its indebtedness, but without determining the correctness of applicant's estimate of the value of its property, it appears that the sale of the stock herein asked to be authorized will place no additional fixed charge upon this company, but on the other hand, will produce \$2,000,000.00 additional value of property, and to that extent will increase the security of the bonds now outstanding. Furthermore, it will permit of the completion of the large hydroelectric development at Big Creek, which will put applicant in a position to deliver a large amount of additional power with a resulting large increase in income.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Pacific Light and Power Corporation for an order authorizing the issue by said company of \$2,500,000.00 of its first preferred capital stock,

And a hearing having been duly held, and it appearing to the Commission that the money to be secured by the issue of said stock is necessary and reasonably required by said company for the purpose of increasing its facilities and making additions and betterments to its plant, and that the purposes for which the proceeds of the sale of said stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Pacific Light and Power Corporation of \$2,500,000.00 of its first preferred capital stock. Said stock to be issued upon the following conditions, not otherwise:

1. Pacific Light and Power Corporation shall sell the stock hereby authorized so as to net said corporation not less than 80 per cent of the par value thereof.

2. The proceeds from the sale of said stock shall be used for the following purposes only:

- (a) The construction of additions and betterments to its plant and equipment as set out in detail in Exhibit B, attached to the application on file herein.

(b) Provided, that applicant may reimburse its treasury out of the proceeds of the sale of stock hereby authorized for moneys expended out of income since the filing of the application herein for the purposes set out in said application, as the purposes for which the proceeds of the stock asked to be authorized were to be used.

3. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

4. The authority hereby given to issue such stock shall apply only to stock issued by said company on or before the 1st day of August, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of July, 1913.

DECISION No. 840.

IN THE MATTER OF THE APPLICATION OF H. G. LACEY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES IN THE AGGREGATE OF TWENTY THOUSAND DOLLARS.

Application No. 657.

Decided July 30, 1913.

Application of H. G. Lacey Company to issue four promissory notes, aggregating \$20,000.00, proceeds to be used in betterments to plant, granted.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for authority to issue four promissory notes in the amount of \$5,000.00 each in lieu of notes which were issued by applicant for periods of over twelve months subsequent to March 23, 1912, without having first secured the consent of this Commission. At the time these notes were issued applicant was not familiar with the provisions of section 52 of the Public Utilities Act, providing in part

15—ED

that no note payable at a period of more than twelve months after the date of issuance of the same may be issued by a public utility without first having secured the consent of this Commission. Applicant is a public utility supplying electric energy for lighting and commercial purposes in the city of Hanford and surrounding territory. Subsequent to March 23, 1912, it issued the following promissory notes:

1. Note payable to J. O. Hickman for \$5,000.00, dated October 1, 1912, for five years, at 7 per cent interest.

2. Note payable to Mrs. C. L. Newton for \$2,400.00, dated September 30, 1912, for three years, at 7 per cent interest.

3. Note payable to Mrs. C. L. Newton for \$2,600.00, dated October 21, 1912, for three years, at 7 per cent interest.

4. Note payable to J. O. Hickman for \$5,000.00, dated November 26, 1912, for three years, at 7 per cent interest.

5. Note payable to J. O. Hickman for \$5,000.00, dated April 15, 1912, for three years, at 7 per cent interest.

The proceeds from all of the above mentioned notes were used for betterments and improvements chargeable to capital account. Applicant desires to cancel said notes and to issue new notes in lieu thereof for the same term and at the same rate of interest and in the same amounts, with the exception that it desires to issue a single note to Mrs. Newton in the amount of \$5,000.00 to take the place of the two notes heretofore issued to her.

A valuation of applicant's electric properties prepared by J. G. White & Company, as of May 30, 1912, amounted to \$106,042.00, this being an estimate of the cost to reproduce the property new. Applicant alleges that between May 31, 1912, and July 16, 1913, it expended the amount of \$26,743.29 for extensions and improvements. I am not in this proceeding passing on the value of the property but am giving these amounts for what they are worth. Applicant has no bonds outstanding and no indebtedness other than that evidenced by said notes, with the exception of \$5,500.00 represented by two notes executed prior to March 23, 1912.

I find that the purposes for which it is desired to issue said notes are not in whole or in part reasonably chargeable to operating expenses or to income and recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

H. G. Lacey Company, a public utility, supplying electric energy to Hanford and vicinity, having made application to the Railroad Commission for authority to issue certain promissory notes, as will herein-after appear, and a public hearing having been held upon said application, and the Railroad Commission finding that the purposes for which

said promissory notes are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that H. G. Lacey Company be and the same is hereby authorized to execute and issue its promissory notes at interest not to exceed 7 per cent per annum, as follows:

1. Note payable to J. O. Hickman for five thousand (\$5,000) dollars for a period of five (5) years on indebtedness evidenced by note to the same payee in the same amount, dated October 1, 1912, which note applicant is hereby directed to cancel.

2. Note payable to Mrs. C. L. Newton for five thousand (\$5,000) dollars for three (3) years on indebtedness evidenced by note to the same payee for two thousand and four hundred (\$2,400) dollars, dated September 30, 1912, and another note to the same payee for two thousand and six hundred (\$2,600) dollars, dated October 21, 1912, which said two notes applicant is hereby directed to cancel.

3. Note payable to J. O. Hickman for five thousand (\$5,000) dollars for a period of three (3) years on indebtedness evidenced by note to the same payee in the same amount, dated November 26, 1912, which said note applicant is hereby directed to cancel.

4. Note payable to J. O. Hickman for five thousand (\$5,000) dollars for a period of three (3) years on indebtedness evidenced by note to the same payee in the same amount, dated April 15, 1912, which said note applicant is hereby directed to cancel.

Applicant shall make written report to this Commission when the notes hereby authorized have been issued, stating the terms of each of them, in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The authority hereby given to issue promissory notes shall apply only to promissory notes issued prior to September 1, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of July, 1913.

DECISION No. 841.

IN THE MATTER OF THE SCHEDULES OR TARIFFS OF
RATES OF CHARGES OF WELLS FARGO & COMPANY.

Case No. 122.

MERCHANTS AND MANUFACTURERS' ASSOCIATION OF
LOS ANGELES*vs.*WELLS FARGO & COMPANY AND AMERICAN EXPRESS
COMPANY.

Case No. 279.

CALIFORNIA CENTRAL CREAMERIES

vs.

WELLS FARGO & COMPANY.

Case No. 307.

THE COUNTY OF ORANGE

vs.

WELLS FARGO & COMPANY.

Case No. 312.

Decided August 1, 1913.

Held, In this proceeding upon the Commission's own initiative that all rates of charges of Wells Fargo & Company for transportation within the State of California are unjust, unreasonable and discriminatory in so far as they differ from the rates prescribed and found to be just and reasonable.

Held, An entirely new classification and system of rates prescribed for the State of California.

Held, Rules and regulations modified and new rules and regulations established.

Held, Rates, classifications, rules and regulations prescribed shall be effective not later than October 1, 1913, before which time Wells Fargo & Company shall print and file tariffs embodying said rates, classifications, rules and regulations.

Held, Wells Fargo & Company may keep accounts and submit statements showing effect of decision on its revenues, whereupon, if injustice has resulted, the Commission will make such further order as the evidence submitted shall justify.

Pillsbury, Madison & Sutro and Charles W. Stockton, for Wells Fargo & Company.

Oscar C. Mueller, for Merchants and Manufacturers' Association of Los Angeles.

Samuel M. Davis and A. A. Mills, for County of Orange.

Gavin McNab, for California Creameries.

E. W. Camp, for Atchison, Topeka and Santa Fe Railway Company.

Frank M. Hill, for Fresno Traffic Association.

REPORT OF THE COMMISSION.

Under the Railroad Commission Act, which was superseded by the Public Utilities Act, it became necessary for all of the common carriers to file with this Commission schedules of rates applicable to freight business within the State of California within sixty days after the effective date of that act. Within sixty days thereafter it became the duty of the Commission either to approve said rates or specify its refusal so to approve. Under this provision Wells Fargo & Company filed its rates with this Commission, which this Commission refused to approve, and Case No. 122 is the result of the investigation by this Commission growing out of this procedure.

On May 9, 1911, the first hearing was held, and thereafter continued hearings were held on May 10th, 12th, June 13th, September 6th, 7th and 12th, 1911. The defendant, through its attorney, questioned the jurisdiction of this Commission, but during the pendency of the proceeding, on October 10, 1911, amendments to the Constitution were adopted, and subsequently, on March 23, 1912, the Public Utilities Act went into effect. These constitutional and statutory enactments deprived the points raised by the defendant of any merit, as admitted by the defendant itself, and the jurisdiction of this Commission to conduct this hearing and to make a decision therein is admitted by Wells Fargo & Company.

Before the final hearing was held, Cases Nos. 279, 307 and 312 were filed and consolidated with the main case, and all of these cases, together with many informal complaints, were made the subject of testimony at the hearing.

A general attack has been made by both the informal and formal complainants upon the rates, rules, regulations and practices of this company. All of these matters are formally before the Commission in this proceeding, covering the entire State, and it is necessary for us to consider each individual rate and all of the combined schedules of rates together with the classifications, rules and regulations of Wells Fargo & Company.

While these matters are all inter-related, and one can not be determined independently and apart from the others, yet for the sake of clearness it will be advisable to consider rates with the necessarily related question of classification first, and subsequently the other matters may be determined. The fact also that the Interstate Commerce

Commission in Opinion No. 1967, decided June 8, 1912, has gone exhaustively into these matters and with reference to all matters except rates has set forth conclusions with which we are in substantial accord, makes it further advisable that we consider the question of rates separately. We agree that uniformity of practices, rules, regulations and classification should be had if possible for both state and interstate freight, and also for a similar service there can be no reason why the state rate should be different from the interstate rate merely by reason of the state or interstate character of the traffic. It is only by reason of the fact that the average length of haul for interstate movement is greater and the character of the commodity different that there should be any distinction in rates. We shall, therefore, defer a consideration of any of the questions except that of rates until we have outlined our views and made our findings with reference to this important branch of the inquiry.

The Interstate Commerce Commission, in the decision heretofore referred to, uses the following language with reference to the basis upon which rates shall be earned:

“From these considerations it appears quite evident that the foundation of a reasonable rate can not be the return upon the property of the express company as such, no matter how offensively large or absurdly small this may appear to be when calculated from the balance sheet.”

With this statement we do not at all agree, and from an analysis of the very able opinion rendered by the Interstate Commerce Commission we believe that this statement is directly at variance with one of the findings in said case to the effect that “in the fixing of its rates an express company should not be allowed to charge more than a railroad if the latter undertook to and did give the same service.” With this latter expression we are in hearty accord. And we likewise concur in the opinion of the Interstate Commerce Commission wherein it said, “The railroad furnished the property that is most valuable and gives the greater portion of the service. If we are to base the rate upon value of property used (and certainly this is a primary consideration) we must consider not alone the express company’s property, but that of the railroad that is used in giving these services.” Having in mind this fact, and the further fact heretofore referred to as found by the Interstate Commerce Commission, that the express company should not be permitted to charge any more for the service than the railroad would be allowed to charge, provided the railroad itself performed the service, it appears to us that the conclusion that the value of the property of the express company is not to be considered nor a return on such property taken into account, “no matter how offensively large or absurdly small,” is not justified. Let us see what condition we

would meet if, as suggested by the Interstate Commerce Commission, we substituted the railroad carrier in the performance of the entire express business and eliminated the express company—for this is the condition which the Commission suggests should be considered in fixing the rates to be charged for this service, because unless this is done it will be impossible to tell whether the rate charged by the express company was higher or lower than that which might be charged by the railroad if it were performing the service.

If, then, the railroad were performing the entire service, the property devoted to this service would naturally fall into two divisions—first, that which is now furnished by the railroad and engaged primarily in conveying the commodities, and, second, that which is now furnished by the express company and engaged primarily in collecting and delivering the commodities at terminals. Of course there is some slight overlapping and some of the property owned by the express company is used in the conveyance, and perhaps some of the railroad's property is used in some degree in the terminal part of the business, but for all practical purposes this division may be followed. How shall we determine what the railroad's service is worth? If the railroad were performing the service, segregations would be required to be made both in property and operating expense between the express business and the other business of the carrier, and perhaps it would be required that we resort to arbitrary methods somewhat similar to those often adopted in segregations between passenger and freight business of railroads. In fact, Mr. James Peabody of the Atchison, Topeka and Santa Fe Railway Company, who was permitted to appear and testify, not as a matter of right, but because the Commission desired all of the light possible on this subject, attempted to make such a segregation, but his methods were admittedly arbitrary and demonstrably incorrect, mainly because of the fact that in making his segregation he assumed that the railroad company performed the same service on express carried by it as it did for the benefit of other commodities. Such, of course, is not the case, because of the fact that the railroad company does nothing but furnish the room within which to store the commodity and applies the pull to the dead weight and transports it over its rails. But, as has already been said, if we were to treat the rail carrier as the agency entirely in charge of this public function, we would be required to make a segregation to determine what portion of its property is properly assignable to its express business, and likewise what portion of its operating expense shall be so assigned. Fortunately, as far as convenience is concerned, the railroads and the express companies have furnished us a basis upon which we can determine the value of the property of the railroad devoted to express business and the cost of the service performed by it in the express business.

At various times Wells Fargo & Company has entered into contracts with the railroads in this State for transportation by such railroads of the commodities delivered to Wells Fargo & Company for transportation. These contracts are on a percentage basis. The two main roads operating within this State with which the express company has contracts are the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company. With the latter company the express company has a contract wherein it gives 55 per cent of its gross revenue, while to the Southern Pacific it gives 40 per cent. It is urged, however, that in this latter case there was a certain initial consideration paid by the express company which should be prorated over the years which the contract runs, and that if such is done it will be found that approximately 55 per cent of the gross revenue is paid to the Southern Pacific Company. This matter will be considered more in detail later.

The public does not deal at all with the railroads in these express matters, and in attempting to fix rates this Commission necessarily is confined to the common carrier which assumes the responsibility for this service, namely, the express company, and it is no concern of the public what division is made between the express company and the railroad, as far as the express service alone is concerned, so long as the entire charge is reasonable. But this Commission does have a right to assume that the actual amount paid voluntarily by the express company and accepted voluntarily by the railroad company for the service performed by the railroad company is a proper and reasonable charge for this service so far as the contracting parties are concerned. And the railroads entering into these contracts on the percentage basis enter into them in full contemplation of the fact that the State has the power to fix the express rates, and in agreeing to take a percentage of the gross receipts these railroads agree to take the percentage of such gross receipts which are the result of reasonable rates fixed by any public authority empowered so to do. Therefore, if this Commission or any other competent public authority should lower the rates of the express company the obligation of the express company to the railroad company is satisfied when it pays the percentage of the lesser gross receipts resulting from the lower rates; and likewise should by any chance the rates be raised, the railroad party to the contract would legally take the greater amount. These contracts were made in contemplation of the power of the State to fix rates of the express company, and such power is a condition subsequent in the contract. The correctness of this position is admitted in the record by the attorneys for the express company and we do not believe can be successfully assailed. Therefore, we have the right to assume that the actual amount paid the year preceding this investigation, for example (*Smyth vs. Ames*,

169 U. S. 466), was the proper amount to be paid to the rail carriers for their part of the service, and we have the right to assume that this payment covers the cost of performing the service by the railroad and all its fixed charges properly assignable to express business, including interest on the fair value of the property of the railroad devoted to this service. Such being the case, it is only necessary for us to ascertain the amount paid by the express company to the railroads within this State during the year immediately preceding this investigation to determine how much must be set aside for such service. The Commission would be within the law, if it saw fit to do so, in taking the lower amount which would be the result of the percentage on the lower rates, if rates should be lowered, as the amount to be assigned to the railroad portion of the business, but in order to be fair we choose to take the amount which was paid under the condition of rates voluntarily produced by the contracting parties themselves and allow that amount as properly assignable to the railroad service for the future. The fact that the railroad's percentage alone will not give it this amount, if rates be lowered, is no concern of the public nor this Commission, and as has already been said, the railroad can not complain at this result because, by accepting the percentage, it has waived its right to more; while the express company certainly can not complain if after the Commission has found that a certain amount is the proper amount to be paid for the service performed by the railroad, it then by reason of its percentage arrangement pays less than this amount. We, therefore, are of the opinion that the actual amount paid by the express company to the railroads for the service performed by such railroads for such express company is the just and reasonable amount to be assigned to this portion of the service. This, therefore, leaves us to consider the other portion of the service and the property and expense incident thereto, namely, the service performed by the express company itself. For, under the suggestion of the Interstate Commerce Commission which we have adopted, the entire service both of the railroad and of the express company must be considered, and if the railroad alone were performing the service, and we had found how much property and how much expense were incident to the performance of the transportation portion of the business, we would have left the expense and property incident to the pick-up or terminal portion of the business, and the same rule should apply to this portion of the service as applies to the transportation portion.

If the railroad were performing this entire service, we would find the entire property, both that which is now furnished by the railroad and that which is furnished by the express company, and would give a return upon all this property, after taking care of the other necessary

charges, and having done so we would have done all that the law or fair dealing requires we should do in favor of the agency performing this public service.

It would not be necessary to make any apportionment of the money paid to the railroad companies under their percentage contracts between state and interstate business, because, as has already been said and as is admitted by the attorneys for the express company, the amount paid to the railroads contemplates the cost of performing the service and the interest on the investment of the railroads devoted to such service, both the property devoted to state and interstate business and the expense incident to these two kinds of service. In short, the amount paid on each particular service and for the service in the aggregate by the express company to the railroad company under this voluntary arrangement is all the railroad company is entitled to. Therefore, we might subtract from the total revenue collected by the express company for state and interstate business the total payment by the express company to the railroads for doing state and interstate business, and we would have a remainder which should represent the cost of performing the service by the express company, both with reference to state and interstate freight in California, a proper amount for depreciation and a fair earning upon the value of the express company's property, and anything in excess thereof would represent an exaction which the express company has no right to take from the public through rates. While this method might be pursued with propriety, yet we have not felt it necessary to do so because of the fact that we have been able to locate the actual payments made to the railroads on state business, and, therefore, this amount may be deducted from the gross state revenue found after the proper segregations, which we shall discuss hereafter, and the remainder will represent that portion of the earning which is properly attributable to state business.

Our problem, therefore, narrows to a determination—first, of the amount of express property in California properly assignable to state business; second, a determination of the expense of performing this purely state business, and, third, the gross revenue secured from purely state business. Given these three results and we may determine whether or not the earning of the defendant herein is in the aggregate in excess of that to which it is entitled. Thereafter, if such be found to be the case, it will be necessary to apply such reduction to whatever scheme of rates we may determine as necessary in lieu of the system of rates now in vogue. This latter determination, however, will await a discussion of the rules, practices and classifications of this company.

With a view to determining these several questions the Commission required certain information to be presented by the express company.

It was agreed that the months of June and July, 1911, were typical months and would fairly represent the average monthly business done by the express company. The record shows that the express company agreed that these months are typical of the entire year's business, yet recently they have suggested that such is not the case. However, under the circumstances we feel justified in using these months as typical. The Commission required that Wells Fargo & Company furnish to it copies of its waybills for all shipments, both in-bound and out-bound, from all of its offices in California during these two months, and from these statements of business transacted we drew off the earnings, both state and interstate, for these two months and multiplied by six to get the yearly earnings. This involved an enormous amount of labor and nearly a year was used in compiling the data, which required consideration of 2,396,942 individual transactions. The results finally reached show that for the months of June and July the gross revenue from the express business so far as it actually concerns the transportation business of this company, purely intrastate, amounted to \$751,406.03, which would mean a total of \$4,508,436.18 for the year. This figure for the two months is not an estimate, but the actual revenue secured for transportation between points within the State of California and will be taken as the gross revenue to be used as the basis for the determination of the issues involved herein.

When we come to consider expense we find this expense falling naturally into two classes—first, the amount paid to railroads, and, second, the amount expended by the express company in the performance of its part of the service. The expense incurred by the express company again divides naturally into overhead expense, terminal expense, line expense and miscellaneous expense.

The amount paid to railroads can be easily ascertained from actual payments, except in the case of the Southern Pacific company. The express company pays to the Southern Pacific 40 per cent of its gross earnings, and to the Atchison, Topeka and Santa Fe Railway Company 55 per cent. It is urged that the 40 per cent does not properly represent the payment made to the Southern Pacific Company because of the fact that at the time of the entering into the contract on October 9, 1893, certain initial payments were made by the express company which should be prorated over the twenty-one years of the contract. The language in the contract covering this advanced payment is as follows:

“The express company hereby agrees to pay the Southern Pacific Company \$688,750.00 and 16,625 shares of increased capital stock of said express company (which is agreed to be of the value of \$130.00 per share), said capital stock to be a part of a total issue of \$8,000,000.00. The express company also agrees

to pay the Southern Pacific Company during the term of this contract 40 per cent of the gross earnings."

On the basis of the agreement the initial payment amounts to \$2,850,000.00, made up of cash, \$688,750.00, and stock, \$2,161,250.00. This amount distributed over the period of twenty-one years as suggested by the attorney for the express company would yield \$135,714.29 for the year 1911, which we have in question. The express company suggests that this sum of \$135,714.29 be apportioned between state and interstate business on a mileage basis. Using the mileage basis herein adopted we would be required to charge to California business, both the intrastate purely and the interstate business carried over the lines in California, \$18,131.43. This amount, however, must again be apportioned between intrastate purely and interstate carried over California lines, and on the basis contended for by the express company 76.84 per cent would have to be apportioned to purely intrastate business. Therefore, giving the defendant express company everything it asks in this regard, regardless of the propriety thereof, the utmost that this initial payment could swell the cost of securing railroads to do the intrastate business for it is \$13,932.19.

According to the data furnished the Commission by the express company and filed as Commission's Exhibit No. 6, \$320,514.59 was paid all carriers in June and July, 1911, for the service performed by these carriers during those months on purely intrastate business. Extending this amount to the twelve months we have \$1,923,087.54. Adding to this \$13,932.19 advanced payment on account of Southern Pacific contract we get a total of \$1,937,019.73, which represents the cost of doing the railroad portion of the business of the defendant express company during the year 1911, and covers, as has already been said, not only the cost to the railroad of doing this business, but a reasonable return upon its property devoted to such service, and we find as a fact that \$1,937,019.73 is the amount which it cost the express company during the year 1911 to pay for the service which was rendered in its business by the railroad companies within this state on purely intrastate business, and that such an amount represents the entire expense of doing such business by the railroads, including all operating expenses and fixed charges and covering reasonable amounts for depreciation and a reasonable earning upon the fair value of the property of the railroads devoted to this service. Subtracting this from the gross of \$4,508,436.18, which was the gross return received by the defendant express company during the year 1911 from purely intrastate express business, and eliminating all non-transportation income, we have the amount of \$2,571,416.45, which represents the gross received by the express company after the entire charge of the railroads has been taken care of.

Returning now to the expense incurred by the express company in the performance of that part of the express service which is performed by it, we find that certain necessary apportionments between state and interstate must be made. As to overhead and line expenses there are certain apportionments between California and territory outside of California necessary to be made, and after these apportionments have been made it is necessary again to apportion the result which represents the expense of doing all of the business done in California, both state and interstate, between purely intrastate business, which represents business originating in and destined to points in the State of California, and California interstate business, which represents business originating in California destined to outside points, or originating outside California destined to points within this State. Mr. Newlean, comptroller of Wells Fargo & Company, suggests that overhead expense be apportioned, first, on a mileage basis to secure the amount of California business, both state and interstate, and that the apportionment between the California state and interstate business be made on a piece basis. He suggests that line expense be apportioned, first, on a train mile basis, and then on a piece basis. In order to make the apportionments on a mileage basis it will be necessary to determine what mileage the express company has on its entire system and what in California. There would be no difficulty in doing this were it not for the fact that considerable mileage of this company is sea mileage, and it is urged, quite properly, we think, that this mileage should not be given the same consideration as land mileage, inasmuch as great distances are covered by the vessels upon which this company operates with a comparatively small amount of traffic.

On the other hand it would not do entirely to eliminate this mileage, because some portion of the expense of doing all of the business of the express company is attributable to this water mileage. The company classifies its mileage as ocean going, consisting of 9,397 miles, and steamboat lines, which represents 6,159 miles, and it is urged that this entire mileage should be eliminated from consideration. We do not agree that this should be done, since it would result in an unfairly high percentage of the mileage being charged to California.

In our computation we have included the coast mileage and eliminated the ocean mileage altogether, which gives 13.36 per cent of the entire mileage to California and 86.64 per cent to the territory outside of California. The company's contention is for 14.61 per cent to California and 85.39 per cent to the rest of its territory, and it is seen that the difference is so inconsiderable as not to affect substantially the result.

The overhead and line expenses will therefore be apportioned on the basis hereinbefore suggested, while the miscellaneous expenses will

the basis hereinbefore suggested; while the miscellaneous expenses will be apportioned on various bases in accordance with the particular item involved. Before making the final segregations we will discuss these various miscellaneous items and indicate the basis upon which the apportionment will be made.

The first miscellaneous item is loss and damage, which amounts for the entire system to \$49,098.65 for the two months in question. This we have apportioned between California and outside California on a mileage pro rate, and the apportionment of the state business between California interstate and California state is made on the piece basis. This will give us for California purely intrastate business \$5,040.38, and for the year \$30,242.28.

Refund vouchers for the two months involved amount to \$8,081.69. This item of expense is properly not expense, but must be considered as a deduction from revenue, as it represents overcharges which are required to be refunded to shippers. The company suggests that this entire amount be charged as an expense against the state business, but of course this is not a fair method of apportionment. In order that some basis might be determined, this Commission took the Oakland agency as typical and found that during the months of June and July refund vouchers amounting to \$139.86 represented refunds on intrastate shipments and \$149.02 on interstate shipments. On the assumption that the Oakland agency fairly represents all agencies, it appears that the refunds on interstate business were in excess of the refunds on state business. We have apportioned this item on a basis of 50 per cent state and 50 per cent interstate—thereby, if burdening any traffic at all, the burden is laid on state traffic. On this basis for the two months this expense amounted to \$4,040.85 and for the year \$24,245.10.

The next item to be considered under this head is premium on bonds, which for the two months amounts to \$1,547.18. This represents the amount which the express company paid to bond California employees. It will readily appear that this should be apportioned between transportation and non-transportation and then between state and interstate. As a matter of fact a great deal of this expense is made necessary by the money order business of this company, but because of the comparative smallness of the item and our desire to be very sure that we are not unfair to the company, we will consider this all as transportation expense, and we have apportioned this between state and interstate on a piece basis; and because of the fact that the return per piece of state business will be less to the company than for interstate, this certainly is not unduly burdensome upon interstate business, and if burdensome at all is a burden upon state business. Inasmuch as this represents premium on bonds of California employees only, it is

properly chargeable to California interstate and California state business, and therefore requires but the one apportionment, and on the piece basis this gives \$1,188.85 for California intrastate business, or a total for the year of \$7,133.10.

The next item is depreciation and repairs of refrigerator and ventilator cars. It is urged by the company that the proportion of the time these cars are in California out of the year will give a proper percentage to be charged to California state and interstate business. Adopting this method of apportionment we have \$1,168.62 as the expense chargeable against this account and assignable to California state and interstate business. Apportioning this on the piece basis between California interstate and California state business, as urged by the defendant, we have intrastate expense for the two months of \$897.97, or \$5,387.82 for the year.

The company gives an item of \$19,853.54 for the two months as covering supplies, including personal property, office fixtures, stable property, stationery, office and stable supplies, and makes the note that of this amount \$1,459.56 in June and \$2,126.71 in July, or a total of \$3,586.27, represents additional property, which would leave a total expense amount of \$16,267.27 if this item is properly chargeable to expense at all. On being questioned concerning this large item witnesses for the defendant testified that it covered primarily the stationery account assignable to California. The annual report filed in 1911, however, shows that the total amount of stationery used for the entire business of this company for the year 1911 amounted to \$347,814.24. Apportioning this latter figure on a mileage basis to get the amount properly chargeable to California state and interstate business we have \$46,467.98, and again apportioning this amount on a piece basis to obtain the amount chargeable to California intrastate business we have \$35,706.00, which is certainly all that can be contended for by this defendant to cover its stationery account instead of the much larger amount which would result from charging the \$16,267.27 to California stationery account for the two months. The remaining items probably represent renewals, and if such is the case are not properly chargeable to operating expense. Inasmuch, however, as this company has submitted as operating expense its entire outlay for the year, which its comptroller has admitted covers the cost of replacements and also which necessarily covers the cost of additions, we are of the opinion that the fallacy here pointed out exists with reference to all of the operating expenses of this company, and that we have a right to assume that the expenses presented to this Commission represent not only the legitimate operating expenses, but the amount expended during the year for replacements and what-

ever additions and betterments may have been made. Especially have we a right to draw this conclusion because in addition to the company having filed a statement of all of its expenditures of whatever nature. Mr. Newlean, comptroller of the company, testified (Transcript, page 560) that this company cares for its depreciation out of its income. He says, in answer to a question on this subject:

A. "You understand that depreciation is constantly going on in our property and whatever that depreciation is we must be compensated out of income."

Q. "You charge the cost of replacement or bringing your property up to its new condition to operating expense?"

A. "Yes, sir."

Therefore, with the full understanding that the expenses submitted by this company are to be so considered, we charge the entire item of \$19,853.54 for these two months to expense so understood, which apportioned on a piece basis between California interstate and state business would give a total of \$91,532.76 properly attributable to California state business and covering not only stationery, but whatever other items are covered in this statement. It must be borne in mind, however, that the operating expense submitted for this company covers its entire operating expense properly understood and in addition thereto the entire amount paid out by this company during the year in question for all purposes, including depreciation, replacements, betterments and the like, and when we reach our final result as to operating expense from the amounts here submitted by the express company, we will have reached a result which covers all such items.

The franchise tax paid to the State of California for the year in question is \$78,066.12, and this we have charged entirely against state business because of the fact that a federal franchise tax is also required.

Other taxes are apportioned between California interstate and California state business alone, on a piece basis, and on this apportionment give a total for the year of \$6,669.17.

Insurance apportioned between California interstate and California state business on a piece basis gives \$1,873.02 for the year for California intrastate business.

Attorneys and pensions have been placed together, and while the jurisdiction of the attorneys whose salaries are included extends beyond California, still the item is comparatively small, and we have made these apportionments together between California state and interstate business, and we get for these items for the year \$17,898.30 properly chargeable to California state business.

Debit and credit letters, representing money due agents of the company due to undercharge, amounted to \$445.85 for the two months.

We have apportioned this between California state and interstate business on the same basis as we apportioned refund vouchers and for the same reason suggested there, and on this basis we get for the two months \$222.93 and for the year \$1,337.58.

An item of \$3,652.86 for turkeys sent out by this company to its California employees has been apportioned on a piece basis, as suggested by the defendant, resulting in a charge of \$2,980.26 to California state business.

Bay transfer represents the amount paid the railroad employees on ferries for handling loaded and empty hand trucks. We have apportioned this on a piece basis between California state and interstate business and for the two months involved this gives us \$1,160.30, and for the year \$6,961.80 assignable to intrastate business.

This gives us a grand total of expense under miscellaneous items of \$266,027.93, which represents the expense of doing strictly intrastate business occasioned by these items.

It now remains to consider overhead and line expenses. We have apportioned these first on a mileage basis to get the amount chargeable to California business, both state and interstate, and then have apportioned the result between California state and interstate business on a piece basis. The only departure from this procedure occurs in the line expense, which has been apportioned on a mileage basis first in accordance with the actual mileage involved in the route of a messenger, for example, and the California mileage has been considered as that proportion of the total mileage covered by the messenger which the distance in California represents of the total distance covered. The total overhead expense for the system for the two months is \$145,682.93. Apportioning the overhead by the method already suggested we get \$14,955.55 as the amount of expense assignable to California state business for the two months involved, which for the year would amount to \$89,733.30. Apportioning the line expense as above indicated we get for the two months \$49,021.26 and for the year \$294,127.56. Thus, we have for the three items of overhead, line and miscellaneous expenses \$649,888.79 chargeable to intrastate business. From this must be deducted, however, \$77,150.88, which represents receipts which this company has secured from payments made on account of its joint messengers who handle baggage for the railroad companies in addition to the services performed for the express company and a comparatively small amount from debit and credit letters. This amount is arrived at by an apportionment of the total amount paid between California interstate and California state business on the same basis as messengers' expenses were apportioned, which has already been explained. This leaves a balance of \$572,737.91, which represents the overhead, line and mis-

cellaneous expenses, but is has included therein a certain amount properly chargeable against non-transportation and not already considered. Mr. Newlean testified that it costs 66 per cent of the gross revenue received from non-transportation business to conduct this business. The gross revenue for non-transportation business in California during the two months in question properly attributable to California state and interstate business is \$19,428.15 and 66 per cent of this is \$12,822.58, which under the testimony in this case represents the cost of conducting this business. The items of expense already excluded, however, because they have been located to non-transportation business, amount to \$8,056.61 for the two months, which would leave a difference of \$4,765.97, which represents the cost of conducting non-transportation business which has been included in the expense we have here attributed to California state transportation business for the two months in question, and for the year this would amount to \$28,595.82. This amount has been charged to expense of intrastate transportation business, while it should properly be charged to intrastate non-transportation business. Deducting this amount from the total expense of conducting the intrastate business under the last three heads considered, we get a result of \$544,142.09, which represents the expense incurred by this company during the year 1911 in conducting the purely intrastate business under the heads overhead, line and miscellaneous expense, as heretofore considered.

We have now considered and apportioned all of the items of expense submitted by this company, except terminal expense. A proper method of apportioning this large item is difficult to determine. The evidence shows that the intrastate package is heavier on the average than the interstate package. However, as far as all terminal expenses are concerned, except the actual handling of packages, of course the size makes no difference. The same amount of billing and clerical terminal expense will be occasioned by a small package as by a large one. So the average difference in weight of state and interstate packages handled in California would not affect the relative terminal expense except that which is incident to the actual handling of packages. The evidence shows very clearly that a great number of the state pieces are not handled at all by the express company at terminals. The state business is of such a character that a large amount of it is presented to the carrier for shipment without any pick-up expense at the originating point and is delivered at the point of consignment likewise without a heavy expense to the carrier. Milk, for example, which constitutes an important item of intrastate business and adds substantially to the number of intrastate packages, is not handled at all at terminals by the express company. Therefore,

the number of packages represented by this commodity should certainly be almost entirely eliminated from consideration if an apportionment of terminal expenses is to be made on a piece basis. Fruit and vegetables and similar commodities which, together with milk, make up the major portion of the intrastate traffic of the express company, are rarely picked up by the express company and in many instances not delivered by it. The points of origin of these commodities are uniformly located at or near places where pick-up service is not performed by this company, or if performed these commodities originate outside the pick-up limits. We are clearly of the opinion, from the evidence in this case, that a very small terminal service is performed upon the major portion of the intrastate commodities. Interstate business, on the other hand, consists in the main of commodities that are picked up and delivered by the carrier, and upon practically every piece of interstate traffic some terminal service involving delivery or pick up is performed. This will be the more readily recognized when we bear in mind that these intrastate commodities largely move to or originate at the large centers at which pick-up and delivery service is performed by the carrier. All inspection of the property and expense statements submitted show that the terminal property and terminal expenses of this defendant consist mainly of property and expense incident to its pick-up and delivery business. Therefore, in our opinion, it is manifestly unfair to state business to apportion the terminal expense directly on a piece basis between state and interstate business, as urged by the carrier. In order, however, that we may have the entire matter before us and may consider all of the bases suggested, we will make the apportionment first upon the piece basis without approving the result, for the reasons heretofore pointed out, and understanding that in our opinion the result of such an apportionment is unduly burdensome upon state traffic.

During the two months in question, from an actual count, made from the evidence submitted, under the direction of the Commission, there were found to be 555,161 pieces of interstate express matter received and forwarded at all of the offices in the State of California, and 1,841,781 pieces of intrastate express matter, making a total of 2,396,942 pieces of express matter the subject of this investigation, and on the basis of apportionment originally advocated by the carrier this would necessitate 76.84 per cent of the terminal expense being apportioned to the state and 23.16 per cent to California interstate business. The total terminal expense for the two months in question was \$291,321.46. This includes terminal expense incident to transportation and non-transportation alike, but we have elsewhere elim-

inated the non-transportation item, so that it need not be eliminated here. On the piece basis there will be \$223,851.41 properly assignable to California state business during the two months, and for the year the amount of expense assignable to such business would be \$1,343,108.46.

Another possible method of apportionment results from the method adopted by this company at some agencies of paying the expense of transacting the business on a percentage basis. In this way it is possible to locate at a considerable proportion of the offices in this State the actual amount paid by the carrier to cover these terminal expenses separately for state and interstate business. When we apply the piece basis of apportionment to these commission agencies we find that uniformly a greater cost is apportioned against the state business than is actually paid in the percentage to the agent. For example, the agent's commission reckoned on a straight percentage basis might amount to \$50.00 per month on the intrastate business, while on a piece basis of apportionment it would appear that it costs the company \$75.00 to perform this service, when as a matter of fact the agent's commission at these commission stations represents the entire cost to the company. It would certainly appear to be proper to accept as the cost of doing the business that which is actually paid by the company to get it done. If such be the case, it might also be possible for apportionments to be made at the other agencies of this express company where agents are not paid on a commission basis by the same method. But while we see in this method, at least when applied to the non-commission agencies, the same fallacy as is inherent in the revenue prorate basis, and therefore do not adopt it outright, yet we can see no cause for complaint on the part of this carrier whose rates are here in question if such a procedure were adopted which would merely be extending the method which it voluntarily adopts for certain agencies to other agencies where no direct location of expense is possible, and we shall outline the effect of this method of apportionment upon the terminal expense, having in mind its limitations as just discussed.

The actual expense at all agencies, covering what we have here denominated terminal expense, was for the two months involved \$291,321.46. Because of the fact, however, that a considerable portion of this company's business is what may be termed non-transportation, consisting of money order business and the like, it is necessary to make an apportionment of this amount between transportation and non-transportation and to eliminate the latter from consideration here, and thereafter to apportion the business between state and interstate. The actual amount paid by the company for transacting transportation business at commission agencies may be readily determined

from the information on file, inasmuch as it consists of the straight percentage of the collections, and we find this amount to be for the two months in question \$85,251.09, and the cost of transacting all the business, both transportation and non-transportation, at non-commission agencies as \$203,093.05, thus making a total of \$288,344.14, which represents the actual amount paid for transportation business at commission offices and all business, both transportation and non-transportation, at non-commission offices; the amount eliminated up to this point being \$2,977.32, which represents the amount paid by the company for transacting non-transportation business at commission offices which it is possible exactly to locate.

In determining commissions it is necessary to count some business twice, because of the fact that commission agents receive a commission both on out-going and in-coming business. For example, if station A and station B are commission agencies, and a package is shipped from one of these stations to the other and the express charge is \$1.00, the originating agency will get a percentage of this \$1.00 and the receiving agency likewise will get a percentage. Therefore, in the following computations we have counted the receipts for business transacted at each agency as the receipts both for the express matter originating at that agency and that received at such agency. It will appear, therefore, that taking California agencies alone all California interstate business will be counted once and all purely intrastate business twice. Having these considerations in mind and limited by what has just been said, the total business at all agencies in the State of California, both transportation and non-transportation, both state and interstate, for the two months in question is \$2,163,598.22. The transportation business can be located and amounts to \$2,144,170.07, while the non-transportation amounts to \$19,428.15. The total transportation receipts at commission agencies amount to \$772,650.02, and the total transportation receipts at non-commission agencies amount to \$1,371,520.05; the non-transportation receipts at commission agencies amount to \$8,404.02; the non-transportation receipts at non-commission agencies amount to \$11,024.13; while state transportation receipts at all agencies amount to \$1,493,267.51, and the interstate at all agencies amount to \$650,902.56.

We have already seen that the total expense of conducting transportation business at commission agencies for the time in question is \$85,251.09 and the total transportation receipts at these agencies during the same time is \$772,650.02, which gives a ratio or average commission on transportation business of 11.033 per cent. At non-commission agencies the total expense of conducting the business is \$203,093.05 and the total receipts are \$1,382,544.18, divided between

transportation \$1,371,530.05 and non-transportation \$11,024.13. It is not possible at these agencies to segregate the expense of conducting transportation and non-transportation business, as it was at commission agencies, because of the fact that the books of the company make no segregation, but taking the total business, both transportation and non-transportation, and the total cost of conducting this business, we have an average of 14.69 per cent cost of conducting the business as against the average of 11.033 per cent at commission agencies, following the same basis for the two kinds of agencies, except for the fact that at commission agencies we have been able to locate directly transportation and non-transportation business.

Having ascertained the percentage of cost to transact transportation business at commission agencies and all business at non-commission agencies, our next step is to find the amount of state and interstate transportation business at commission agencies and state and interstate transportation and non-transportation business at non-commission agencies, and applying the aforementioned percentages it would give us, on this method of segregation, the cost of transacting each particular branch of business as between state and interstate. This on the theory, as has already been stated, that if the express company is satisfied to prorate its expense at commission agencies between state and interstate business on this method it should not object to the same method being applied at non-commission agencies.

The total transportation business at commission agencies, as already found, is \$772,650.02; located directly to state and interstate from the waybills inspected, \$597,028.62 state and \$175,621.40 interstate. Applying the percentage of 11.033, which is found to be the percentage of cost of transacting its business, to these amounts and we have \$65,873.73 as the cost of conducting state transportation business at commission agencies and \$19,377.36 as the cost of conducting interstate business at commission agencies. The total business at non-commission agencies is \$1,382,544.18, of which \$896,238.89 is state transportation business, \$475,281.16 interstate transportation business, and \$11,024.13 state and interstate non-transportation business.

Assuming that the percentage of 14.09, which has been found to be the percentage of cost of transacting all business at non-commission agencies, is constant, both as to transportation and non-transportation business—the non-transportation representing comparatively such a small amount that any effect it may have upon the result will be inconsiderable—and applying this percentage of 14.69 to the state and interstate business at non-commission agencies, we get the cost of conducting state transportation business at non-commission agencies \$131,655.74 and the cost of conducting interstate business at the same agencies \$69,817.88.

From the above computations we find that the cost during the two months in question of conducting state business at commission agencies amounted to \$65,873.73, and at non-commission agencies \$131,655.74, making a total terminal expense arrived at by this method for transacting purely intrastate business for the two months in question of \$197,529.47, and for the same time and by the same method the terminal expense of transacting interstate transportation business is \$89,195.24 and of non-transportation business, both state and interstate, \$4,596.75. The terminal expense of transacting intrastate business during the two months in question being \$197,529.47, we would have a total for the year 1911 of \$1,185,176.82.

It will be possible also for us to outline still a third method of apportionment of terminal expenses between state and interstate business by considering the actual amount paid for transacting state business at commission agencies, and then apportioning the entire terminal expense at non-commission agencies on a piece basis and taking the sum of these two results as representing the total terminal expense properly assignable to state business. The actual terminal expense incident to intrastate business at commission agencies computed on the basis of the commissions actually paid was, for the two months in question, \$65,873.73, which for the entire year would amount to \$395,242.38, which represents the amount paid to agents at commission agencies for performing the entire terminal service of this company assignable to intra-tate business. The entire terminal expense at all agencies during the two months, as shown by the digest sheets submitted in evidence, was \$291,321.46. Deducting from this the expenses incident to transportation and non-transportation business at commission agencies leaves \$203,093.05, which represents the total terminal expense of performing transportation and non-transportation business at non-commission agencies. Apportioning this on a piece basis, we have \$156,056.70 for the two months, or \$936,340.20 for the year, making a total by this method of apportionment of \$1,331,582.58. This figure includes certain non-transportation expense which has been considered elsewhere.

On the various bases outlined for apportioning terminal expense, we will have the following total expense of transacting the intrastate business of this company—

First Method of Apportionment.

| | |
|---|-----------------------|
| Overhead, line and miscellaneous expense, apportioned as previously explained | \$544,142 09 |
| Terminal expenses apportioned on a piece basis..... | 1,343,108 46 |
| Making a total of..... | \$1,887,250 55 |

as the expenses of conducting the intrastate transportation business on this method of apportioning terminal expense. Deducting this from

the \$2,571,416.45, which is the gross revenue to the express company after it has paid the railroads, that to which they are entitled leaves the net earning from intrastate business of \$684,165.90.

Second Method of Apportionment.

| | |
|---|-----------------------|
| Overhead, line and miscellaneous expense, apportioned as previously explained ----- | \$544,142 09 |
| Terminal expenses apportioned on the commission agency basis-- | 1,185,176 82 |
| Making a total of----- | \$1,729,318 91 |

which represents the entire cost under this method of apportionment of transacting intrastate business for the year in question, which deducted from the \$2,571,416.45, which represents the gross revenue of the express company as heretofore explained, leaves a balance of \$842,097.54.

Third Method of Apportionment.

| | |
|---|-----------------------|
| Overhead, line and miscellaneous expense, apportioned as previously explained ----- | \$544,142 09 |
| Terminal expenses apportioned on the commission agency and piece basis ----- | 1,331,582 58 |
| Making a total of----- | \$1,875,724 67 |

Deducting this amount from the \$2,571,416.45 gives a net earning from intrastate business of \$695,691.78.

Thus we have net earnings in no case less than \$684,165.90, and as high as \$842,097.54, dependent upon the method of apportioning terminal expenses adopted. As we have already said, we are plainly of the opinion that the piece method, which gives the lowest amount, is unfair to state business, and we believe that we have set out reasons justifying such conclusions. The exact amount of excess burden upon state business can not be determined from the evidence before us, but we are of the opinion from all the evidence that the net earning of this company is certainly in excess of \$750,000.00. This net earning, as pointed out hereafter, must be understood as representing not only a net earning after paying operating expenses and all other charges except interest on investment, but as including all depreciation, replacements and betterments that have occurred in this company's property during the year in question. Besides, it must be understood from the testimony of Mr. Newlean that this company's book account shows the actual expenditures for property made by this company, and thus its very depreciation is capitalized, and under the method explained by this officer of the company, if an automobile, for instance, is worn out the cost of that automobile originally bought from revenue appears in its capital account and likewise the cost of the automobile which must be substituted for it.

It only remains now to determine the amount of property which this express company has devoted to public service in its express business independent of its non-transportation business.

The property of this defendant consists mainly of horses, wagons and facilities at terminals for collecting and distributing packages, and refrigerator and ventilator cars owned by defendant and used in its business. Statements have been furnished showing the amount of property actually located in California independent of the refrigerator and ventilator cars. The company itself has made segregations between its operative and non-operative property. According to the statements originally filed with this Commission in this case compiled from appraisals made by its agents at its various stations, it had in the State of California on March 1, 1909, operative property valued at \$667,170.05, and on March 1, 1910, operative property valued at \$714,257.24. Notwithstanding these statements, the comptroller of the company testified that the value of the operating property of this company located within the State of California on June 1, 1911, was \$1,203,562.85. On being questioned as to the reason for the statement produced in evidence in this case differing so substantially from the statements heretofore filed and submitted in evidence in the case, Mr. Newlean testified as follows (Transcript, page 559) :

“Obviously any consideration of property investments should be at cost, and we therefore have prepared an amended exhibit on the basis of original actual cost.”

It further developed from the testimony of this witness that the statement submitted by him represented the book cost of the properties involved, and when this is taken in conjunction with his subsequent statement (Transcript, page 560) that this company charges the cost of replacement and keeping its property in condition to operating expense, it can readily be seen that the statement filed will represent substantially duplications in the capital account. However this may be, it is not proper to take the book account of a utility showing the cost of its property as representing the proper basis upon which rates shall be earned. Unquestionably this property has sustained a considerable amount of depreciation, and likewise unquestionably it is the practice of this company to reproduce its worn out capital from revenue, a practice which has heretofore been commented upon. Having these facts in mind, we think we are the better justified in taking the appraisals furnished by the agents of this company as showing the present value of this property, and especially if we take the second and higher of these appraisals, and while we do not find specifically upon the value of the property of this defendant, still it is our opinion that \$714,257.24 is the maximum value for which it can contend for its property located within the State of California.

In addition to the property just discussed, we must take into consideration the ventilator and refrigerator cars used partly in this company's California business and partly in other business. Very clearly it appears that the same method of apportionment between state and interstate business, which properly would apply to the property located entirely within California and used exclusively in California state and interstate business, would not apply to the company's ventilator and refrigerator cars which are engaged in California interstate and state business, and interstate and state business in other states as well. Therefore, we will defer the consideration of the investment of this company in ventilator and refrigerator cars until after we have disposed of the other property located wholly within this State.

The express company has suggested no method of apportionment of this property between state and interstate business. We have adopted the piece basis of apportionment and feel that we are justified in so doing from the following considerations:

The evidence shows that the average weight of the purely intrastate package handled by Wells Fargo & Company in the State of California is heavier than the average weight of the California interstate package handled by Wells Fargo & Company in the State of California. A portion of the intrastate business consists of green fruits, vegetables, butter, eggs and milk. The property which we are considering and which we are attempting to apportion between California state and interstate business is largely the property used in picking up and distributing these commodities, and the evidence shows that most of these state commodities just enumerated are not picked up or delivered by the express company, but are delivered to it at its stations and delivery received of it by the consignee at the station to which it is consigned. Besides, the evidence also shows that the interstate package—and this is too evident to require argument—is carried a greater distance and that property of the express company used in connection with the transportation as distinguished from the pick-up and delivery is more in service on the average for the interstate package than for the state package. It is our opinion, therefore, that the piece basis of distribution between California state and interstate business is, if unfair to either kind of traffic, unfair to the state traffic. We have, however, adopted this method of distribution, and it is in line with the general contention of the express company as to other accounts, which we have found it necessary to apportion. On this basis the property inventoried by the express company at \$714,257.24 should be apportioned at the ratio of 76.84 per cent to California purely intrastate business and 23.16 per cent to California interstate business; thus giving \$548,835.26 properly assignable to California purely intrastate business and \$165,421.98 properly assignable to California interstate business.

The total value of the ventilator and refrigerator cars owned by this company and used in its entire business, according to the statements furnished by this company in this case and in its annual report, is \$375,822.50. The company suggests that the value of these cars should be apportioned to California on the basis of the percentage of time these cars are found to be actually in California, and during the months of June and July it is found that these cars were in the State of California 22.3 per cent of the time. Assuming this basis to be correct, the proper amount of this total to be charged to California state and interstate business is 22.3 per cent of \$375,822.50, which amounts to \$83,808.42. Apportioning this property assignable to California state and interstate business between these two classes of business on the piece basis as heretofore adopted, we have a value of \$64,398.39 representing the amount which should be charged to California purely intrastate business on account of the ventilator and refrigerator cars of this company, which, added to the former amount of \$548,835.26 apportioned to California intrastate business purely, gives a total of \$613,233.65, which represents on the basis here followed in these computations the value of the property of this express company properly assignable to purely California intrastate business, and, as has been said, represents the maximum to which this company is entitled.

We have already found that the net revenue from California intrastate transportation business during the year here considered was not less than \$684,165.90, which represents a little more than 111 per cent of the total value of the company's property devoted to the public service in this State, conceding to the company practically everything it asks; or, taking the second method of apportionment, the net earning is in excess of 136 per cent.

Allowing the company 10 per cent on the basis of valuation of its property of \$613,233.85 gives a charge of \$61,323.39 as the earning to which the express company is entitled after paying all of its operating expenses, taking care of depreciation and all charges necessary and proper in the conduct of its express business, and we shall prescribe rates which will allow the express company all of its charges to the railroads, its legitimate operating expenses, all of its other legitimate charges, including depreciation, and \$61,323.39 as a net earning upon its property.

We have not heretofore considered the capital stock or bonded indebtedness of this company, matters ordinarily considered in arriving at the fair value of a public utility property. These matters will readily be seen to have slight bearing upon the questions here involved. Wells Fargo & Company engages in both transportation and non-transporta-

tion business, has no bonded debt and besides has large holdings both of stocks and bonds of other corporations. As illustrating this condition and also the general inter-corporate relationship which exists between the various express companies and railroads, upon which we will comment hereafter, we take the liberty of quoting from the appendix of Opinion No. 1967 of the Interstate Commerce Commission, to which reference has already been had, as embodying the opinion of this Commission with reference to this matter:

"WELLS FARGO & COMPANY: CAPITAL STOCK 239,674 SHARES.

"As of June 30, 1911, this company had investments in bonds of railroads and other common carriers to the amount of \$8,022,000 par value, and in stocks of similar companies to a par value of \$559,000, making a total investment in such securities of \$8,581,000. Among its important holdings in railroad lines may be mentioned the following: Atchison, Topeka & Santa Fe Railway, bonds \$232,000, stocks \$200,000; Baltimore & Ohio Railroad, bonds and notes \$1,156,000; Central Pacific Railway, bonds \$250,000; Chesapeake & Ohio Railway, bonds and notes \$700,000; Chicago, Milwaukee & St. Paul Railway, bonds \$300,000, stocks \$200,000; Chicago, Milwaukee & Puget Sound Railway, bonds \$778,000; Illinois Central Railroad, bonds \$500,000; National Railways of Mexico, bonds and notes \$560,000; New York Central lines, bonds \$500,000; Pennsylvania Railroad, bonds \$750,000; Southern Pacific and associated lines, bonds \$1,223,000, stocks \$70,000; Union Pacific Railroad, bonds \$300,000, stocks \$310,000.

"Of the lines above named, Wells Fargo & Company operate over the following:

"Atchison, Topeka & Santa Fe Railway; Central Pacific Railway; Chicago, Milwaukee & St. Paul Railway; Chicago, Milwaukee & Puget Sound Railway; Southern Pacific, and through a subsidiary, the Campania Mexicana de Express, S. A., over the National Railway of Mexico. At least a degree of common interest between the express company and the roads named may fairly be inferred from the facts herein stated.

"The returns to the Commission's order dated October 16, 1911, show that shares to a par value of \$4,590,000 were held by the American Express Company in Wells Fargo & Company on June 30, 1911, and that shares amounting to \$282,200 par value were held by officers and directors of common carriers. To the latter may be added the holdings of Mrs. Mary W. Harriman, \$6,465,500, who is the largest holder of the company's shares and who is also the largest holder of shares in the United States Express Company. It will be observed that Mrs. Harriman owns 27 per cent of the capital stock, the American Express Company 19 per cent, and that the remaining 54 per cent is divided among 1,991 other shareholders, 1 per cent being held by officers or directors of common carriers.

"The directors of this company and the number of shares held by each on June 30, 1911, were as follows:

| Name. | Number of shares held. |
|--------------------|------------------------|
| Richard Delafield | 1 |
| H. W. De Forest | 25 |
| William F. Herrin | 15 |
| H. E. Huntington | 30 |
| William Mahl | 1 |
| John J. McCook | 60 |
| L. F. Loree | 10 |
| Charles A. Peabody | 10 |
| William Sproule | 100 |
| E. A. Stedman | 10 |
| W. V. S. Thorne | 1,800 |
| P. M. Warburg | 300 |
| F. D. Underwood | 30 |
| Total | 2,392 |

"Ratio of shares held by directors to total number outstanding, 1 per cent.

"Of the above named, Mr. Sproule was chairman of the board of directors and Mr. Stedman vice president of Wells Fargo & Company. Mr. Sproule has since retired and is now president of the Southern Pacific Company. Mr. Herrin is vice president, Mr. Mahl is comptroller, and Mr. Thorne is director of purchases of the Southern Pacific Company. Mr. Peabody is a director in the Southern Pacific Company, Union Pacific Railroad Company, vice president of the Delaware & Hudson Company, Illinois Central Railroad Company, and Pittsburgh, Ft. Wayne & Chicago Railroad Company.

"Mr. Loree is president of the Delaware & Hudson Company and director in the following:

"Baltimore & Ohio Railroad Company, Capitol Railway, Champlain Transportation Company, Chateaugay & Lake Placid Railway, Cohoes Railway, Cooperstown & Charlotte Valley Railroad, Kansas City Southern Railway, National Railway of Mexico, and a number of other small steam and electric lines.

"Mr. Underwood is president of the Erie Railroad and president or director of its associated lines and interests, including coal, iron, steel, dock, land, banking, and other companies. In the interim between the death of the former president of the express company in March, 1910, and the appointment of his successor in November, 1910, Mr. Underwood acted as managing director of Wells Fargo & Company.

"It will be observed that the Southern Pacific, the Delaware & Hudson, and the Erie roads are strongly represented on the directorate of Wells Fargo & Company; that the largest stockholder is also the largest stockholder in the United States Express Company, and the second largest stockholder is a nominally strong competitor, the American Express Company. Examination of the list of stockholders shows Ida C. Potts a holder of 1,500 shares, who is a large holder of United States Express Company's stock and also of the American and Adams Express Companies."

securities, and Samuel Thorne, holding 1,500 shares, who is a director in the Chicago, Burlington & Quincy Railroad and in the Great Northern Railway, both Hill lines. As shown by the list, 12 holders own 54 per cent of the stock.

"G. W. Bovenizer, the third largest holder of stock, 5,706 shares, is said to be an employee of Kuhn, Loeb & Company. His name does not appear in the 'Directory of Directors,' and it is assumed that the stock is held for the banking firm or for some of the Harriman lines. P. M. Warburg, one of the directors, is a member of the firm of Kuhn, Loeb & Company, bankers for the Harriman interests.

"Through Mr. Thorne a common interest exists between the Hill lines owning the Great Northern Express Company and the Northern Express Company and Wells Fargo & Company."

These comments of the Interstate Commission have reference to the time covered by the opinion here considered, and as far as the evidence shows these conditions have not been substantially changed.

Turning now to the specific complaints urged in this case, we find them involving in addition to the excessive, unreasonable and discriminatory character of the rates, double collection and extra charges and collections for delivery of shipments to the points outside of arbitrarily established free delivery zones. The hearing also developed and the evidence covered the main subjects of complaints discussed by the Interstate Commission in its decision involving the unreasonableness of terms of the shipments imposed by the receipt given by the carrier, delays in settlements of claims for loss and damage and confusing sets of rules governing the classification of express matter which led to discrimination in rates. The Interstate Commission has gone thoroughly into these and related questions, and the evidence in this proceeding justifies our following the conclusion reached by the Interstate Commission. We are further moved to take this course by reason of two considerations: First, we are in substantial accord with the conclusions reached by the Interstate Commission and find the evidence in this case would lead us to similar conclusions, and, second, the nature of the express business makes uniformity between the rules affecting state and interstate shipments desirable whenever such uniformity can be brought about. For these two reasons we will follow quite closely the conclusions reached by the Interstate Commission and herewith acknowledge our indebtedness to that Commission for the very exhaustive and conclusive presentation of this portion of the case. We shall take the liberty of quoting from the decision heretofore referred to as occasion requires, or of modifying the conclusions and the language used therein in such slight degree as local conditions and the evidence in this case may require.

The express company classifies the commodities which it handles generally into two classes, merchandise and general specials. In addi-

tion to these, it also has what are called commodity rates and special commodity rates. The general base rate is the merchandise rate, and many of its rates take a percentage of or are a multiple of the merchandise rate. Merchandise rates are stated in cents per hundred pounds. To get the rate on a shipment of less weight than 100 pounds it is necessary to use the express company's graduate table, so-called. This consists of a table showing the weights from one pound to 100 pounds where the merchandise rate is from 40 cents to \$1.75. Each rate carries a specific charge. It is to be noted that under the merchandise rate of 40 cents the charge for shipments weighing from 31 pounds to 100 pounds is the same as for 100 pounds. In other words, while the rate is quoted so many cents per hundred pounds, in reality the hundred pound rate is applied to packages of all weights from 31 pounds up to 100 pounds. Under the 50 cent rate the charge for from 51 pounds to 100 pounds, is the same as per 100 pounds. Under the 60 cent merchandise rate the charge is the same on shipments weighing from 51 pounds to 100 pounds as for 100 pounds. Under the 75 cent rate the charge for from 61 pounds to 100 pounds is the same as for 100 pounds. Under the 90 cent rate the charge is the same for 61 pounds and up to 100 pounds as for 100 pounds. Under the \$1.00 rate shipments from 66 pounds to 100 pounds are charged the same as though each individual shipment were 100 pounds. Under the \$1.10 rate shipments weighing 66 pounds and up to 100 are charged the same as for 100 pounds. Under the \$1.25 rate the same thing occurs. Under the \$1.40 rate shipments weighing 70 pounds to 100 pounds are charged for the same as 100 pounds. Under the \$1.50 rate 75 pounds to 100 pounds are charged for as 100 pounds. Under the \$1.60 rate the rate is the same for 80 pounds up to 100, that is, the 100 pound rate applies. Under the \$1.75 rate shipments weighing 88 pounds to 100 pounds are charged as for 100 pounds. The same comment may be made on shipments where the base rate is more than \$1.75.

To illustrate the effect of this method of stating rates one concrete example will be sufficient. Suppose the merchandise rate between two points appears in the tariff as 40 cents for 100 pounds, then if the shipper has a package weighing 31 pounds which he desires to ship between the points where the 40 cent rate for 100 pounds obtains it will be necessary for him to pay the 100 pound rate, while another shipper could present a 100 pound shipment and have it transported for exactly the same price. The unfairness of this method of stating rates is too palpable to need further comment.

These methods of stating rates and classifications are cumbersome and unreasonable, and we are in hearty accord with the Interstate Commerce Commission in our conclusion that a simplification is neces-

sary, and we also find that the rates should be so stated that the **discriminatory** and unfair practices brought about by the **graduate table** shall be eliminated. It is quite proper to take the merchandise **rate**, for instance, as a base rate, and it also is quite proper to put in **exceptions** from this merchandise rate as conditions of traffic require, but the rates should be so constructed that a small package will not be required to pay an undue proportion of the revenue, nor should a **misleading contrivance** be adopted which on its face appears to state a rate for 100 pounds when as a matter of fact it states a rate which applies on commodities weighing not one third this amount.

We believe that the merchandise rate should be taken as the **base rate**, and that departures from this rate, instead of being stated as **at present**, should include all of the article to which such departure **applies**. For instance, if there be commodities upon which the **double merchandise rate** applies, all of these commodities should be listed alphabetically under the heading "200 per cent merchandise," and the same rule should apply for 75 and 50 per cent of merchandise. In the order we shall prescribe that all rates be stated as percentages of **or** multiples of the merchandise rate, and all other matters which are necessary to be considered with reference to the method of stating rates and classifications will be dealt with there. It is sufficient at the present that we find, as the evidence shows, that the classifications and rules affecting the method of stating rates now maintained by the defendant, Wells Fargo & Company, are unjust, unreasonable and discriminatory, and that all rates now maintained by Wells Fargo & Company by reason of our findings as to the method of stating said rates and with reference to said classifications, as well as by reason of the excessive return heretofore found to result from said rates, are unjust and unreasonable.

This express company maintains in effect **twenty-seven rules**, many of which should be eliminated and others should be changed. We shall comment and make findings upon the rules which the evidence show need amendment or change, and as to those rules not commented upon it is understood that the carrier need make no change.

Rule 1 applies to receipting for shipments. The Interstate Commerce Commission has suggested that the use of **rubber stamps** on receipts be prohibited, and that the express company be bound by a rule which shall require a declared valuation to be written into the receipt or a declaration that the valuation has not been given shall be written therein, and that the rule be further amended so as to require that shipments must be packed in a manner to insure safe transportation with ordinary care on the part of the express company, and that packages containing fragile articles or articles consisting wholly of or in part of or containing glass must be plainly marked to indicate the

nature of contents. This finding we find to be justified, and adopt it as the finding of this Commission.

Rule 3 applies to prepayments or guarantee of charges. Under this rule the express company has exacted a different compensation when shipments are not prepaid than is required when they are prepaid. This certainly should not be done. It is quite proper for the express company to require prepayment or a guarantee of payment of charges by the consignor, but certainly one rate should not apply when the rate is paid by the consignor and a higher rate when paid by the consignee.

Rule 5 deals with free delivery limits, and this has been the subject of a considerable amount of complaint. It will be necessary, however, for this matter to be left for specific determination at each agency of this company, as no general rule can be prescribed. However, conditions being the same or substantially the same, the practices of this company with reference to free delivery should be the same, and if this Commission finds that free delivery is given at one agency and denied at another agency where the conditions are substantially the same, it will require the elimination of such discrimination. We suggest to the company that it make a careful inspection of the free delivery limits and practices at its various agencies with a view to removing discrimination voluntarily, thus relieving this Commission of the necessity of a further investigation at each agency.

Rule 8, concerning the graduate scale and the application of rates and charges, must of necessity be modified, and we have already discussed this at length.

Rule 9 provides for the assessment of charges upon two or more packages upon their aggregate weight when shipped by one shipper at the same time to one consignee at one local address. This rule should be amended by the substitution of the following language, as suggested by the Interstate Commission:

“Provided a lower charge is made thereby two or more packages forwarded by one shipper at the same time upon one receipt to one consignee at one local address must be charged for as if for one package on the aggregate weight; provided, however, that when such shipments average less than ten pounds per package, charges shall be assessed on basis of ten pounds for each package. Example: when the total weight of the several packages divided by the number of packages gives a quotient less than ten, charge on basis of ten pounds for each package. If the quotient so obtained is over ten charge on basis of total actual weight.

“Shipments of different classes aggregating as above shall be charged for at the highest rate applicable to any article in the shipment.

“When articles carried at merchandise pound rates are aggregated in accordance with ‘a’ of the rule for which this is a substitute, the minimum charge applies to the entire shipment.”

Rule 10 governs the return of shipments to consignors. The Interstate Commerce Commission suggests that this rule be amended to read as follows, and we adopt their suggestion:

"Undelivered packages originally forwarded by express may by shipper's order be returned or forwarded by freight under the following conditions:

"1. When the shipper desires to instruct the agent at destination to return or reship undelivered packages, charges on the outward shipment (if not prepaid), together with the reshipping charge provided in the following section, must be forwarded to the agent at destination with instructions covering the return of reshipment by freight. Any instructions to reship to a consignee other than the shipper must be accompanied by the approval of the agent at shipping point, or in the absence of such approval by the original shipping receipt, which must also be endorsed by the shipper showing disposition.

"2. If it is desired to have the outgoing charges and reshipping charge billed back to the shipper through the agent at shipping point, the instructions to reship must be filed with the originating agent.

"3. The charge for return or forwarding by freight will be ten cents per 100 pounds, with a minimum charge of 25 cents in addition to all unpaid outgoing express charges. No charge shall be made for the return of the bill of lading.

"4. When the shipments consist of two or more packages or two or more shipments, the reshipping charge in section 3 shall be computed on the basis of the actual gross established minimum charge the same as if consisting of one package only."

Rule 11 concerns the assessment of valuation charges. The Interstate Commerce Commission suggests the following substitute for this rule:

"The rates governed by this classification are based upon a value of not exceeding \$50.00 on each shipment of 100 pounds or less and not exceeding 50 cents per pound actual weight on each shipment weighing more than 100 pounds, and the liability of the express company is limited to the value above stated unless a greater value is declared at time of shipment, and the declared value in excess of the value above specified is paid for or agreed to be paid for under the schedule of charges for excess value in the following paragraph of this rule; and in case of partial loss or damage the express company shall not be liable for more than such proportion of the same as \$50.00 for 100 pounds or less in weight, or 50 cents per pound if weight exceeds 100 pounds for the value declared bears to the actual value if greater. When the value declared by the shipper exceeds a value of \$50.00 on a shipment weighing 100 pounds or less, or 50 cents per pound weighing more than 100 pounds, the charge for the excess value will be at the rate of ten cents on each \$100.00 or fraction thereof (1/10 of 1 per cent)."

With this finding we agree, except that it is our opinion that in no case should the charge for valuation exceed the cost of transporting a like amount of currency. It seems inconsistent to charge more for transporting a commodity because of its value than we do for transporting the value itself in the form of currency. Therefore, we will add to the rule as suggested by the Interstate Commerce Commission the following:

“Provided that in no case shall the extra charge for declared value exceed the charge on the same amount of currency between the same points.”

This covers the rules upon which we believe specific findings should be made, and the amended rules as prescribed by this Commission in accordance with the findings herein will be established in the order.

We now reach the all-important question of a proper method for stating rates to be made applicable to the business of this company. We have found that its rates are unjust, unreasonable and discriminatory, and we likewise have found that there are defects in its rules and practices which require change. It will now be necessary affirmatively to prescribe the relief which should follow these findings.

The Interstate Commerce Commission prescribed a system of numbered blocks approximately fifty miles square, and prescribed a method of stating the rates as from block to block. All points within any block take the same rate from or to all points within any other block. This is a comparatively simple method, and provided the base rates in the various sections of the State are so constructed as to have due regard to the local conditions obtaining, such as density of traffic, character of country, etc., we believe that this method is fair both to the carrier and to the public. The Commission has decided to adopt a similar method to the one suggested by the Interstate Commerce Commission, which, by reason of the size of the blocks and the failure to give due weight within the states to the particular traffic conditions locally obtaining, we believe inapplicable to rates for shorter distances. In fixing these rates we have carefully estimated the effect upon the express company's revenue, and in considering this effect we have allowed for the future the same amount as payment to railroads as we found to exist in the year considered, and it has been stipulated by the express company that the evidence will not be considered by it stale because of the necessary time elapsing between the submission of such evidence and the decision of this case, due to the millions of transactions which we felt called upon carefully to consider in order that we should make no mistake. As already pointed out, the fact that the railroads secure their return on a percentage basis, and that the amount which they actually secure from the lower rates which we are ordering in

will probably be somewhat less than the amount here allowed for railroad service, does not affect the correctness of our conclusion that the actual amount paid under a voluntary arrangement may be considered as the proper amount to be paid; and the fact that the express company, because of this percentage arrangement, will secure a larger amount than that which is assigned to the express portion of the business likewise does not alter the correctness of the result. It merely directs the attention to the impropriety of the arrangement which now and heretofore has existed between railroads and express companies whereby either the railroads or the public or both have undoubtedly been the subject of unwarranted exactions. On this aspect of the case we will comment further later in this opinion.

The Commission has prepared a map of the State of California, which has been divided into sections approximately ten miles square. These sections are numbered on the same method adopted by the Interstate Commerce Commission, beginning at the square in the extreme northwest of the State, which bears the number 101, and the north tier of squares are numbered consecutively. The tier immediately south of this begins with the number 201, which is directly south of the square numbered 101. Thus the number of hundreds will give the tier and the units the row. In addition to this, the State has been divided into sections in accordance with the general traffic conditions existing in the different sections of the State.

Section "A" comprises roughly all of that territory lying north of Merced and Monterey, south of Santa Rosa and Marysville and west of Sacramento and Stockton.

Section "B" includes all of the territory south of Fernando, north of Santa Ana, and west of El Casco, in which the traffic conditions are much similar to those existing in Section "A," but which territory is disconnected from Section "A."

Section "C" will be that portion of the State lying north of Redding to the California-Oregon state line.

Section "D" comprises all that portion of the State east of Colfax to the California-Nevada state line and north to the California-Oregon state line, exclusive of stations on the Southern Pacific Company.

Section "E" comprises all the territory north of Mojave to California-Nevada state line.

Section "F" comprises that portion of the State lying east of Daggett to California-Nevada-Arizona state line.

Section "G" covers all the remaining portion of the State not included in the previous sections.

Rates will be stated as applying from square to square. All points within each square take the same rate to and from all points in any

other square. The specific rates have been carefully worked out, as has already been said, in accordance with traffic conditions and to bring about the necessary result as regards earnings. The particular rate between squares is determined by counting the squares by the most direct line and consulting the merchandise rate table which accompanies the map. And this scheme of rates and this method of determining the rates resultant therefrom are hereby found to be just and reasonable rates to be charged by Wells Fargo & Company for intrastate traffic, and all other rates in conflict herewith are found to be unjust, unreasonable and unlawful to be charged. The map referred to accompanies this opinion and is marked "Exhibit 1," and both this map and these merchandise rate tables are made a part of this opinion and the order following.

Before entering an order in this case we believe that it is quite proper that certain general observations should be made and a general analysis of this company be presented.

Wells Fargo & Company, under that corporate name, was organized under the laws of Colorado on January 26, 1872, being the successor of the Holladay Overland Mail and Express Company, which organized February 5, 1866. No data is available as to the amount, if any, of money which was originally put into this property, but it was admittedly small. As far back as this Commission has been able to secure records, it is found that this has been a paying concern. From 1890 to 1893, 8 per cent dividends were paid on the capital stock; in 1894, 7 per cent; from 1895 to 1901, 6 per cent; from 1902 to 1909, 9 per cent; from 1903 to 1906, 8 per cent; from July, 1906 to 1909, 10 per cent. In the annual report of this company to the Commission for the year ending June 30, 1910, the company makes the following statement, sworn to by its vice president and general auditor:

"By unanimous vote of the stockholders at a special meeting duly called for the purpose on December 23, 1909, the capital stock of the company was increased in pursuance of its charter powers from \$8,000,000 to \$24,000,000, the stockholders of record being given the privilege of subscribing for the increased capital stock at par. The regular semiannual dividend of 5 per cent was declared upon the old capitalization of \$8,000,000 from the earnings of 1909 and a special dividend of 300 per cent was declared by the directors on December 23, 1909, from the accumulated profits and investments of the company from the time of its organization to that date. In June, 1910, a dividend of 5 per cent was declared upon the capital stock issued and outstanding, \$23,967,400. The total amount declared in dividends regular and special during the year being \$25,598,370."

Notwithstanding the increase in capitalization from \$8,000,000.00 to \$24,000,000.00, in 1911 the regular dividend of 10 per cent was paid on the \$24,000,000.00 capitalization and the same was done in 1912 and

1913. Therefore it will appear that although the explanation made by the company that the 300 per cent dividend declared in one year was the result of surplus earnings of the company is correct, yet these surplus earnings were made in addition to an earning which netted the stockholders of this company never less than 6 per cent, and since 1906, 10 per cent on the capital stock.

Outstanding capital stock of this company is 237,674 shares of the par value of \$23,767,400.00, which shows that 2,326 shares authorized have not been issued, or are still in the treasury. According to the reports filed with this Commission by the express company, the entire property used in operation in all of the territory covered by it, both in state and interstate business, is \$5,732,092.59; while miscellaneous physical property not used in operation amounts to \$2,170,972.58, and its investments in securities are of a book value of \$19,806,925.19, making a total property valuation, according to its own statement, in excess of \$27,000,000.00, of which only about one fifth is used in the conduct of its express business. The book value of some of the securities set out in the reports to this Commission is very much less than the market value of such securities. The company's statement shows, for example, that it holds stock of Wells Fargo-Nevada National Bank of \$2,000,000.00, which is listed as of value of \$3,000,000.00, while the market value to-day is about \$3,500,000.00. From a general inspection of the stocks and securities held by this company, we are of the opinion that this illustration but represents the general condition, and that the market value of the securities owned by this company is much in excess of the amount reported, and that unquestionably the non-operative property of this company, including its investments in securities, is in excess of the par of its capital stock.

The history of this company, as well as that of other express companies doing business in the United States, shows that they have started from small beginnings and that very little, if any, money has ever been put into these properties except the money earned from rates. The tremendous sum of over \$27,000,000.00, shown to represent the value of the property of this company under its own statement, has been secured from the earnings of this company during the period of its existence, and in addition thereto the rates charged have produced a net return sufficiently high to enable this company to pay a liberal dividend upon its stock, and the amount of this stock has not been determined by the investment of the company, but by the amount it has been able to earn. Therefore, we face a condition where the rate-paying public has produced a property upon which it pays rates, namely, the \$5,732,092.59 used in operation, and in addition thereto values almost five times as great which have gone into other non-operative properties, which are now, of course, owned by the stock-

holders of this public utility, but safely removed from public regulation. When we meet such a condition the conclusion is inevitably forced upon us that either this agency is getting an amount tremendously more than that to which it is entitled from the rate-paying public, or it is paying to the railroads an amount which is not sufficient to compensate these railroads for the service performed by them for this express company. In any event, we are confronted with a condition that should be changed, for if this enormous amount of excess dividends is being taken from the railroads, then the other service performed by the railroads for the public must be burdened thereby, and the railroads will be required to charge upon their other traffic a sufficient amount in addition to a reasonable rate to cover the amount which through their contracts they have donated to the express company. On the other hand, if the railroads are being paid a proper amount, this amount is being taken directly instead of indirectly from the pockets of the ratepayers. We have assumed, because we can see no other way of remedying this condition, that the railroads are getting that to which they are entitled, and, as we have already said, we have every right to make this assumption. It may well be, however, that both the railroads and the public are getting the worst of it, but that somebody is getting the worst of it admits of no doubt.

We have quoted from the Interstate Commerce Commission's report covering the inter-corporate relations existing between this express company and other express companies and railroads. That at least a degree of common interest exists between Wells Fargo & Company and some of the railroads over which it operates is the inference which the Interstate Commerce Commission draws. We would go further and say that their report, and the reports on file with this Commission, show that there is in addition to this inter-corporate relationship a relationship existing between the officials and principal stockholders of some of these railroads, and this express company through stock ownership and control by the same officials and stockholders of the two companies alike, which at least makes it possible for the railroads to be exploited for the benefit of the express company. If a stockholder of the Southern Pacific, for instance, owning 25 per cent of the stock of the Southern Pacific, also owns 25 per cent of the stock of Wells Fargo & Company, it will readily be seen that such stockholder is not very much concerned about the express company getting the best of it; and, furthermore, if such stockholder of the railroad company can secure rates from the public for the service performed by the railroad company which are adequate to cover any losses occasioned by unprofitable contracts with the express company, such an arrangement would probably not be distasteful to such stockholders whereby double dividends are secured. We have no hesitancy in saying that the control of one public utility by

the stockholders of another with which such utility occupies contractual relations, or any close alliance existing by reason of any inter-corporate or stockholder relation, may result in abuses.

We are of the opinion from the evidence in the case that Wells Fargo & Company is now earning annually within the State of California upon intrastate business in the neighborhood of three quarters of a million dollars beyond that which it is necessary for it to earn to pay a liberal earning upon the value of its property devoted to such business. Let us assume for a moment that this unreasonable earning, instead of being secured from the public, is secured from the railroads. The evidence in this case shows that the express company pays the Southern Pacific Company 40 per cent of its gross revenue. To be sure, the express company urges that by reason of initial payments made at the time of entering into the contract with the Southern Pacific Company it is in fact paying about 55 per cent. This, of course, is not true, and in actual fact on its own theory, prorating the initial payment over the life of the contract, it is only now paying in the neighborhood of 40.8 per cent of its gross. The evidence also shows that about 66 per cent of the gross paid to railroads in this State is paid to the Southern Pacific on this 40 per cent contract. While it is probably true that the express company pays a larger proportion to the Southern Pacific Company in California than it does for the entire territory over which it operates, yet it is certainly true that the Southern Pacific Company receives the largest amount which is paid to any road by this company, and this at the rate of 40 per cent. So it appears that at least as far as the major portion of the business transacted for this company by the railroads is concerned, the railroads secure about 40 per cent of the gross. The gross annual revenue received by this company from California intrastate business is in round numbers \$4,500,000.00. The gross revenue annually earned by the entire system for all kinds of transportation business is approximately \$28,000,000.00, so that the total revenue represents approximately six and a half times the California intrastate revenue.

Assuming for the purpose of illustration (and we are making this analysis merely for such purpose) the same ratio of net earnings after paying the railroads the entire amount received by them is maintained for the entire business of this company as exists in California, and further assuming that the same excess over the reasonable return on the property of this company is maintained throughout the entire system as is found to exist in the State of California, we would find that this company is making a net annual revenue from operation of almost \$5,000,000.00 beyond that to which it is entitled. This \$5,000,000.00, in line with what we have already said, would represent, if our computations are correct, unreasonable exactions either from the public or

from the railroads. But we are assuming now that it is from the railroads, and if such is the case it is unquestionably true that the Southern Pacific Company, which receives the lowest percentage for performing the express service and does the greatest amount of business for the express company, is standing the greater proportion of it. We have already seen that Wells Fargo & Company pays the Southern Pacific Company 66 per cent of the total amount paid to railroads by that company for transacting California intrastate business. Assuming that one half of all the payments to railroads by this company in all its operations is paid to the Southern Pacific Company, then the Southern Pacific Company would be doing much more than one half the business by reason of its smaller percentage and would, therefore, stand more than one half of the losses. But to be safe, assuming that the Southern Pacific stands only one half of unreasonable exactions which are taken by this company under this illustration from the railroads, then we will see that this company is losing approximately \$2,500,000.00 annual net revenue by reason of having farmed out this portion of its transportation business to an express company. And if this illustration is in any way in accord with conditions as they exist, this road at least would be much better off if it took over this service and performed it itself. In any event, it might be well for the Southern Pacific Company, and the other railroads of the United States, to look into this express situation, and quite possibly they could find some relief from at least a part of the financial difficulties which they maintain beset them, and we would suggest that, by reason of the intercorporate and inter-stockholder relationship seen to exist, that the rate-paying public would view with more approval the applications of these roads continually being made to the Interstate Commerce Commission for increases in rates, if this rate-paying public could be sure that inter-manipulations of railroads and express companies was not making fortunes for stockholders of these railroads and express companies out of the express business at the expense of the railroad revenue.

We have chosen to assume, as indeed we have a right equitably and legally to assume, that the amount paid by this express company to the railroads with which it contracts is in all respects the proper amount to cover the entire expense of doing this business by the railroads, including interest upon the fair value of the property engaged therein, and, having made this assumption, we are forced to the conclusion that the amount earned by this company in excess of that which it could reasonably demand, is being taken *directly* from its patrons in the express business instead of *indirectly* through the patrons of the railroad companies. Such being the case, while it should not be the main design of this Commission to scale down earnings, yet we have no alternative in this case other than to scale down the earnings of this

company to a reasonable amount. And, in passing, we think it quite proper to say that something very apparently is wrong with a condition which will permit a public utility not only to create a property upon which the public pays rates, but to create millions besides, and in addition thereto pay dividends upon all of these accumulated millions. Plain common sense and business judgment, if nothing else, should induce the American people to give serious thought to the question whether it would not be wise to substitute some other agency for the agency now doing this business—some agency that will be willing to perform the service for a reasonable charge and which will expect to produce the property itself upon which it demands an earning and not have it produced for it from rates. It seems to us that much of the financial manipulation surrounding the express business has been made possible by the relationship existing between the express companies and the railroads, and likewise the inability of the public authorities heretofore adequately to regulate these express companies has largely resulted from their being substituted for the railroads, who perform the major portion of the service and with whom in reference to this service the public does not deal. The whole arrangement is cumbersome and makes a direct attack of the problem difficult. We disagree, to some extent, with the Interstate Commerce Commission in their conclusion that these express companies are necessary agencies. We do not see why the railroad companies, if this service is a public necessity as it seems to be, can not furnish and maintain this comparatively small amount of additional terminal equipment which is necessary to carry on the pick-up and delivery business of the express company, and if such were done the inter-corporate relationships would be destroyed and the railroads could be given directly a reasonable rate for the entire service. It is our opinion that the express company, as it now exists, is a parasite upon the railroads whose existence is not justified, and we are confirmed the more strongly in this view by reason of the facts heretofore referred to, that the American public has been forced to pay so dearly for this service.

We have already referred to the protest of the Atchison, Topeka and Santa Fe Railway Company filed in this case, and we have also called attention to the fact that the Southern Pacific Company only secures 40 per cent of the gross, while the Santa Fe secures 55 per cent. Under these circumstances, the failure of the Southern Pacific Company to file any protest seems to us to be somewhat significant. It would appear that either the Santa Fe with its 55 per cent contract has absolutely no ground for protest or that the Southern Pacific Company with its 40 per cent contract should have much more ground for complaint. The fact that neither the Atchison, Topeka and Santa Fe nor any of its officials nor principal stockholders are heavily, if at all, interested in

Wells Fargo & Company, and that the Southern Pacific officials and principal stockholders are, and that the Santa Fe with its 55 per cent contract urges it is not getting enough out of the express company, and the Southern Pacific Company with its 40 per cent contract makes no protest, leads us to await with interest the action of the Southern Pacific Company when its 40 per cent contract with Wells Fargo & Company expires on the first day of January, 1914. We do not wish to be understood as criticizing the present officials or stockholders of the Southern Pacific Company, because it is very evident that they did not occupy positions of control at the time of the making of the original Wells Fargo & Company contract, but a renewal of this contract would, of course, be a direct affirmance by them of their belief in its reasonableness, and in the light of the attitude of the comparatively disinterested Santa Fe as regards its 55 per cent contract, the renewal of its 40 per cent contract by the Southern Pacific Company, which can not be said to be disinterested in the affairs of Wells Fargo & Company, should require careful scrutiny by the governmental agency having authority.

We have sought herein to set out the facts which warrant our conclusion that the express company as an agent of the public under the present inter-corporate and individual relationships is not a proper agency to perform this service, and we submit with confidence that the financial manipulations and the tremendous fortunes accumulated under the present arrangement justify the conclusions herein set out to the effect that either the railroads or the public are getting very much the worst of it under the present arrangement.

Because of the fact that the order to be entered herein covers the entire State, and in it discriminations and practices which should be corrected are dealt with, it becomes unnecessary to enter any formal order in Cases Nos. 279, 307 and 312 independent of the order which is entered in Case No. 122 and made applicable to these cases.

ORDER.

Wells Fargo & Company having been cited by this Commission to appear, and all of its rates, classifications, rules and regulations within the State of California being made the subject of investigation in due and legal form, and complaints having been filed by the Merchants and Manufacturers' Association of Los Angeles, California, Central Creameries Company and County of Orange, and these cases having been combined with Case No. 122, brought upon the Commission's own initiative, and a hearing having been held and being fully apprised in the premises, the Commission hereby finds as a fact:

1. That the entire schedule of rates of Wells Fargo & Company in the State of California, and each individual rate therein, is unjust, unreasonable, discriminatory, inadequate or insufficient to the extent that such schedule of rates and each such individual rate differs from

the rates prescribed and established herein and found to be just and reasonable.

2. The Commission further finds as a fact that the classification heretofore adopted by Wells Fargo & Company is unjust, unreasonable and discriminatory.

3. The Commission further finds as a fact that the rules hereafter in this order and opinion specifically referred to are unjust and unreasonable to the extent that said rules differ from the rules herein established and declared to be just and reasonable rules to apply to the business of Wells Fargo & Company.

4. The Commission further finds as a fact that the following classifications are just and reasonable classifications:

All articles specified in the classification as taking merchandise rates should be grouped thereunder and alphabetically arranged.

All articles taking a higher or lower rate than "merchandise" should appear under the rate prescribed, the rate to be stated as a certain percentage of the base or merchandise rate. To illustrate: articles now shown as taking double, one and one half and one half merchandise rate shall be stated as 200 per cent, 150 per cent or 50 per cent of the merchandise rate, commodities so rated to be listed under their respective heading and in alphabetical order.

Merchandise shipments weighing 100 pounds, or less, will take the charge set out in Exhibit No. 2 (Merchandise Rate Tables Nos. 1 to 155, inclusive), hereafter referred to and established. Merchandise shipments weighing over 100 pounds will take the rate set out in the aforementioned tables and be charged pound rates (the weight multiplied by the rate per 100 pounds divided by 100).

The following commodities will take pound rates and be rated at the percentage shown of the merchandise rate, subject to a minimum charge of 25 cents for each shipment, providing actual weight under merchandise rate tables does not make a lower charge:

Seventy-five (75%) per cent of merchandise rate per 100 pounds:

Cheese, crackers, zweibach.

Fish and meat, smoked or dried.

Fruit and vegetables, dried.

Ice cream and all other articles of foodstuffs and beverages not specifically rated below.

Seventy (70%) per cent of merchandise rate per 100 pounds.

Laundry.

Sixty-five (65%) per cent of merchandise rate per 100 pounds.

Pigeons, squabs and poultry, dressed or undressed.

Dead wild game, ducks, geese, hare, cranes, heron.

Ice.

Sixty (60%) per cent of merchandise rate per 100 pounds.

Fresh bread and pies, fresh meat, clams, fish, mussels, shrimps, oysters, and lobsters. Live poultry, pigeons and squabs, in coops. Live turtles. Live hare and live rabbits.

Fifty-five (55%) per cent of merchandise rate per 100 pounds.

Butter, in packages.

Eggs, in cases.

Fifty (50%) per cent of merchandise rate per 100 pounds.

Fresh fruit and vegetables.

The following commodities will take pound rates and be rated at the percentage shown of the merchandise rate, subject to a minimum charge of 25 cents for each shipment:

Thirty (30%) per cent of the merchandise rate per 100 pounds.

Empty carriers, returned.

Twenty-five (25%) per cent of merchandise rate per 100 pounds.

Cream and milk.

In ascertaining the rate on commodities taking a multiple of merchandise rate, fractions will be disposed of in the following manner: 5 mills or less will be dropped; over 5 mills will be counted as 1 cent.

The rates and charges include free "pick-up" and "delivery" at points where such service is now maintained and to the extent and within the limits now maintained, except upon cream and milk and empty carriers returned.

Rates will be stated as applying from square No. — to square No. —. All points in each square will be common points, that is, the same rate applies to or from all points within one square to or from all points within any other square.

The Merchandise Rate Table applicable between squares will be determined from Exhibit No. 1, which is a map accompanying this order and which is made a part hereof. It is to be noted that Exhibit No. 1 is not only made up of squares which are numbered, but that certain parts thereof are designated as sections A, B, C, D, E, F, and G.

To determine the rate or charge applicable between squares, count each square once, beginning with the initial square, following the most direct line or route (rail, water, or both); the number of squares thus obtained indicates the merchandise rate table to be employed.

EXCEPTIONS.

First—Between squares in section C add 5.

Between squares in section D add 7.

Between squares in section E add 5.

Between squares in section F add 7.

Between squares in section G add 3.

Second—Between sections "A" and "B" and all other sections, add the number indicated in first above.

Third—Between section G and sections C, D, E, and F, add five when to or from sections C and E, and seven when to or from sections D and F.

Fourth—Between sections C and E, add 5.

Between sections D and F, add 7.

Between sections C and E and D and F, add 7.

5. The Commission further finds as a fact that all practices and modifications of the rules commented on and set out in the opinion and hereby referred to and the modifications required therein to be made and the rules resulting from such modifications are in each instance found to be the just and reasonable rules.

6. The Commission further finds as a fact that the rates resulting from the method prescribed herein are just and reasonable rates to be charged by Wells Fargo & Company for all of its commodities in accordance with the classification and method of stating rates heretofore set out in full.

And basing its order upon the foregoing findings of fact and the findings of fact in the opinion herein,

It is hereby ordered—

1. That all of the classifications found to be just and reasonable be and the same are hereby established to be observed by Wells Fargo & Company.

2. That all of the rules and regulations herein found to be just and reasonable are hereby established as rules to be observed by Wells Fargo & Company.

3. That all of the rates herein found to be just and reasonable are hereby established as rates to be charged by Wells Fargo & Company.

4. That all of the rates set out herein and all the rules, regulations and classifications to become effective not later than the first day of October, 1913, before which time Wells Fargo & Company is ordered and directed to print, file and distribute according to the rules of this Commission a tariff or tariffs embodying the rules, classifications and rates herein found to be just and reasonable and herein established.

5. No part of this order shall apply to interstate or foreign commerce, but it is limited strictly to intrastate commerce.

6. That Exhibits 1 and 2, to which reference has already been made and which are attached hereto and made a part hereof, are hereby adopted, to be followed and observed in the stating of rates and the compilation of tariffs of rates that are herein established.

7. The express company, defendant herein, may keep accurate and true accounts of its business, so as to determine the effect of the rates herein prescribed upon its revenue, and compute the amount which it would have received had the rates in effect before the effective date of this order been maintained in effect on each shipment of intrastate traffic, and may submit on or before the expiration of six months' period, or the less time elapsing before the submission of such statement, a statement in detail showing the difference between the amount

received under the rates herein established and the amount which would have been received under the rates in effect on the effective date of this order. The statement so submitted is for the purpose of apprising this Commission of the effect of this decision upon the revenue of this company, and if it appears that by reason of causes not now known or facts not in evidence in this case or any other reason that the changes in rates herein ordered have resulted in injustice either to this carrier or its patrons, the Commission will make such further order as the evidence so submitted shall justify.

WELLS FARGO & COMPANY EXPRESS.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|----------------|-------------------------------|----|----|----|----|
| | | 1 | 2 | 3 | 4 | 5 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 2 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | 3 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | 4 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | 5 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | 6 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 6 pounds and not over 7 pounds..... | 7 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 7 pounds and not over 8 pounds..... | 8 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 8 pounds and not over 9 pounds..... | 9 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 9 pounds and not over 10 pounds..... | 10 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 10 pounds and not over 11 pounds..... | 11 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 11 pounds and not over 12 pounds..... | 12 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 12 pounds and not over 13 pounds..... | 13 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 13 pounds and not over 14 pounds..... | 14 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 14 pounds and not over 15 pounds..... | 15 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 15 pounds and not over 16 pounds..... | 16 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 16 pounds and not over 17 pounds..... | 17 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 17 pounds and not over 18 pounds..... | 18 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 18 pounds and not over 19 pounds..... | 19 pounds..... | 25 | 25 | 25 | 25 | 26 |
| Over 19 pounds and not over 20 pounds..... | 20 pounds..... | 25 | 25 | 25 | 25 | 26 |
| Over 20 pounds and not over 21 pounds..... | 21 pounds..... | 25 | 25 | 25 | 25 | 26 |
| Over 21 pounds and not over 22 pounds..... | 22 pounds..... | 25 | 25 | 25 | 25 | 27 |
| Over 22 pounds and not over 23 pounds..... | 23 pounds..... | 25 | 25 | 25 | 26 | 27 |
| Over 23 pounds and not over 24 pounds..... | 24 pounds..... | 25 | 25 | 25 | 26 | 27 |
| Over 24 pounds and not over 25 pounds..... | 25 pounds..... | 25 | 25 | 25 | 26 | 27 |
| Over 25 pounds and not over 26 pounds..... | 26 pounds..... | 25 | 25 | 25 | 26 | 28 |
| Over 26 pounds and not over 27 pounds..... | 27 pounds..... | 25 | 25 | 25 | 27 | 28 |
| Over 27 pounds and not over 28 pounds..... | 28 pounds..... | 25 | 25 | 26 | 27 | 28 |
| Over 28 pounds and not over 29 pounds..... | 29 pounds..... | 25 | 25 | 26 | 27 | 29 |
| Over 29 pounds and not over 30 pounds..... | 30 pounds..... | 25 | 25 | 26 | 27 | 29 |
| Over 30 pounds and not over 31 pounds..... | 31 pounds..... | 25 | 25 | 26 | 28 | 29 |
| Over 31 pounds and not over 32 pounds..... | 32 pounds..... | 25 | 25 | 26 | 28 | 30 |
| Over 32 pounds and not over 33 pounds..... | 33 pounds..... | 25 | 25 | 27 | 28 | 30 |
| Over 33 pounds and not over 34 pounds..... | 34 pounds..... | 25 | 25 | 27 | 28 | 30 |
| Over 34 pounds and not over 35 pounds..... | 35 pounds..... | 25 | 25 | 27 | 29 | 30 |
| Over 35 pounds and not over 36 pounds..... | 36 pounds..... | 25 | 25 | 27 | 29 | 31 |
| Over 36 pounds and not over 37 pounds..... | 37 pounds..... | 25 | 26 | 27 | 29 | 31 |
| Over 37 pounds and not over 38 pounds..... | 38 pounds..... | 25 | 26 | 28 | 29 | 31 |
| Over 38 pounds and not over 39 pounds..... | 39 pounds..... | 25 | 26 | 28 | 30 | 32 |
| Over 39 pounds and not over 40 pounds..... | 40 pounds..... | 25 | 26 | 28 | 30 | 32 |
| Over 40 pounds and not over 41 pounds..... | 41 pounds..... | 25 | 26 | 28 | 30 | 32 |
| Over 41 pounds and not over 42 pounds..... | 42 pounds..... | 25 | 26 | 28 | 30 | 33 |
| Over 42 pounds and not over 43 pounds..... | 43 pounds..... | 25 | 26 | 29 | 31 | 33 |
| Over 43 pounds and not over 44 pounds..... | 44 pounds..... | 25 | 27 | 29 | 31 | 33 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|----|----|----|----|
| | | 1 | 2 | 3 | 4 | 5 |
| Over 44 pounds and not over 45 pounds | ----- | 25 | 27 | 29 | 31 | 33 |
| Over 45 pounds and not over 46 pounds | ----- | 25 | 27 | 29 | 31 | 34 |
| Over 46 pounds and not over 47 pounds | ----- | 25 | 27 | 29 | 32 | 34 |
| Over 47 pounds and not over 48 pounds | ----- | 25 | 27 | 30 | 32 | 34 |
| Over 48 pounds and not over 49 pounds | ----- | 25 | 27 | 30 | 32 | 35 |
| Over 49 pounds and not over 50 pounds | ----- | 25 | 27 | 30 | 32 | 35 |
| Over 50 pounds and not over 51 pounds | ----- | 25 | 28 | 30 | 33 | 35 |
| Over 51 pounds and not over 52 pounds | ----- | 25 | 28 | 30 | 33 | 36 |
| Over 52 pounds and not over 53 pounds | ----- | 25 | 28 | 31 | 33 | 36 |
| Over 53 pounds and not over 54 pounds | ----- | 25 | 28 | 31 | 33 | 36 |
| Over 54 pounds and not over 55 pounds | ----- | 25 | 28 | 31 | 34 | 36 |
| Over 55 pounds and not over 56 pounds | ----- | 26 | 28 | 31 | 34 | 37 |
| Over 56 pounds and not over 57 pounds | ----- | 26 | 29 | 31 | 34 | 37 |
| Over 57 pounds and not over 58 pounds | ----- | 26 | 29 | 32 | 34 | 37 |
| Over 58 pounds and not over 59 pounds | ----- | 26 | 29 | 32 | 35 | 38 |
| Over 59 pounds and not over 60 pounds | ----- | 26 | 29 | 32 | 35 | 38 |
| Over 60 pounds and not over 61 pounds | ----- | 26 | 29 | 32 | 35 | 38 |
| Over 61 pounds and not over 62 pounds | ----- | 26 | 29 | 32 | 35 | 39 |
| Over 62 pounds and not over 63 pounds | ----- | 26 | 29 | 33 | 36 | 39 |
| Over 63 pounds and not over 64 pounds | ----- | 26 | 30 | 33 | 36 | 39 |
| Over 64 pounds and not over 65 pounds | ----- | 26 | 30 | 33 | 36 | 39 |
| Over 65 pounds and not over 66 pounds | ----- | 27 | 30 | 33 | 36 | 40 |
| Over 66 pounds and not over 67 pounds | ----- | 27 | 30 | 33 | 37 | 40 |
| Over 67 pounds and not over 68 pounds | ----- | 27 | 30 | 34 | 37 | 40 |
| Over 68 pounds and not over 69 pounds | ----- | 27 | 30 | 34 | 37 | 41 |
| Over 69 pounds and not over 70 pounds | ----- | 27 | 30 | 34 | 37 | 41 |
| Over 70 pounds and not over 71 pounds | ----- | 27 | 31 | 34 | 38 | 41 |
| Over 71 pounds and not over 72 pounds | ----- | 27 | 31 | 34 | 38 | 42 |
| Over 72 pounds and not over 73 pounds | ----- | 27 | 31 | 35 | 38 | 42 |
| Over 73 pounds and not over 74 pounds | ----- | 27 | 31 | 35 | 38 | 42 |
| Over 74 pounds and not over 75 pounds | ----- | 27 | 31 | 35 | 39 | 42 |
| Over 75 pounds and not over 76 pounds | ----- | 28 | 31 | 35 | 39 | 43 |
| Over 76 pounds and not over 77 pounds | ----- | 28 | 32 | 36 | 39 | 43 |
| Over 77 pounds and not over 78 pounds | ----- | 28 | 32 | 36 | 39 | 43 |
| Over 78 pounds and not over 79 pounds | ----- | 28 | 32 | 36 | 40 | 44 |
| Over 79 pounds and not over 80 pounds | ----- | 28 | 32 | 36 | 40 | 44 |
| Over 80 pounds and not over 81 pounds | ----- | 28 | 32 | 36 | 40 | 44 |
| Over 81 pounds and not over 82 pounds | ----- | 28 | 32 | 36 | 40 | 45 |
| Over 82 pounds and not over 83 pounds | ----- | 28 | 32 | 37 | 41 | 45 |
| Over 83 pounds and not over 84 pounds | ----- | 28 | 33 | 37 | 41 | 45 |
| Over 84 pounds and not over 85 pounds | ----- | 28 | 33 | 37 | 41 | 45 |
| Over 85 pounds and not over 86 pounds | ----- | 29 | 33 | 37 | 41 | 46 |
| Over 86 pounds and not over 87 pounds | ----- | 29 | 33 | 37 | 42 | 46 |
| Over 87 pounds and not over 88 pounds | ----- | 29 | 33 | 38 | 42 | 46 |
| Over 88 pounds and not over 89 pounds | ----- | 29 | 33 | 38 | 42 | 47 |
| Over 89 pounds and not over 90 pounds | ----- | 29 | 33 | 38 | 42 | 47 |
| Over 90 pounds and not over 91 pounds | ----- | 29 | 34 | 38 | 43 | 47 |
| Over 91 pounds and not over 92 pounds | ----- | 29 | 34 | 38 | 43 | 48 |
| Over 92 pounds and not over 93 pounds | ----- | 29 | 34 | 39 | 43 | 48 |
| Over 93 pounds and not over 94 pounds | ----- | 29 | 34 | 39 | 43 | 48 |
| Over 94 pounds and not over 95 pounds | ----- | 29 | 34 | 39 | 44 | 48 |
| Over 95 pounds and not over 96 pounds | ----- | 30 | 34 | 39 | 44 | 49 |
| Over 96 pounds and not over 97 pounds | ----- | 30 | 35 | 39 | 44 | 49 |
| Over 97 pounds and not over 98 pounds | ----- | 30 | 35 | 40 | 44 | 49 |
| Over 98 pounds and not over 99 pounds | ----- | 30 | 35 | 40 | 45 | 50 |
| Over 99 pounds and not over 100 pounds | ----- | 30 | 35 | 40 | 45 | 50 |
| Over 100 pounds, pound rates | ----- | 30 | 35 | 40 | 45 | 50 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 6 | 7 | 8 | 9 | 10 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 6 pounds and not over 7 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 7 pounds and not over 8 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 8 pounds and not over 9 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 9 pounds and not over 10 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 10 pounds and not over 11 pounds..... | | 25 | 25 | 25 | 25 | 26 |
| Over 11 pounds and not over 12 pounds..... | | 25 | 25 | 25 | 26 | 27 |
| Over 12 pounds and not over 13 pounds..... | | 25 | 25 | 26 | 26 | 27 |
| Over 13 pounds and not over 14 pounds..... | | 25 | 26 | 26 | 27 | 28 |
| Over 14 pounds and not over 15 pounds..... | | 25 | 26 | 27 | 27 | 28 |
| Over 15 pounds and not over 16 pounds..... | | 26 | 26 | 27 | 28 | 29 |
| Over 16 pounds and not over 17 pounds..... | | 26 | 27 | 28 | 28 | 29 |
| Over 17 pounds and not over 18 pounds..... | | 26 | 27 | 28 | 29 | 30 |
| Over 18 pounds and not over 19 pounds..... | | 27 | 28 | 29 | 29 | 30 |
| Over 19 pounds and not over 20 pounds..... | | 27 | 28 | 29 | 30 | 31 |
| Over 20 pounds and not over 21 pounds..... | | 27 | 28 | 29 | 30 | 32 |
| Over 21 pounds and not over 22 pounds..... | | 28 | 29 | 30 | 31 | 32 |
| Over 22 pounds and not over 23 pounds..... | | 28 | 29 | 30 | 31 | 33 |
| Over 23 pounds and not over 24 pounds..... | | 28 | 30 | 31 | 32 | 33 |
| Over 24 pounds and not over 25 pounds..... | | 29 | 30 | 31 | 32 | 34 |
| Over 25 pounds and not over 26 pounds..... | | 29 | 30 | 32 | 33 | 34 |
| Over 26 pounds and not over 27 pounds..... | | 29 | 31 | 32 | 33 | 35 |
| Over 27 pounds and not over 28 pounds..... | | 30 | 31 | 33 | 34 | 35 |
| Over 28 pounds and not over 29 pounds..... | | 30 | 32 | 33 | 34 | 36 |
| Over 29 pounds and not over 30 pounds..... | | 30 | 32 | 33 | 35 | 36 |
| Over 30 pounds and not over 31 pounds..... | | 31 | 32 | 34 | 35 | 37 |
| Over 31 pounds and not over 32 pounds..... | | 31 | 33 | 34 | 36 | 38 |
| Over 32 pounds and not over 33 pounds..... | | 32 | 33 | 35 | 36 | 38 |
| Over 33 pounds and not over 34 pounds..... | | 32 | 34 | 35 | 37 | 39 |
| Over 34 pounds and not over 35 pounds..... | | 32 | 34 | 36 | 37 | 39 |
| Over 35 pounds and not over 36 pounds..... | | 33 | 34 | 36 | 38 | 40 |
| Over 36 pounds and not over 37 pounds..... | | 33 | 35 | 37 | 38 | 40 |
| Over 37 pounds and not over 38 pounds..... | | 33 | 35 | 37 | 39 | 41 |
| Over 38 pounds and not over 39 pounds..... | | 34 | 36 | 38 | 39 | 41 |
| Over 39 pounds and not over 40 pounds..... | | 34 | 36 | 38 | 40 | 42 |
| Over 40 pounds and not over 41 pounds..... | | 34 | 36 | 38 | 40 | 43 |
| Over 41 pounds and not over 42 pounds..... | | 35 | 37 | 39 | 41 | 43 |
| Over 42 pounds and not over 43 pounds..... | | 35 | 37 | 39 | 41 | 44 |
| Over 43 pounds and not over 44 pounds..... | | 35 | 38 | 40 | 42 | 44 |
| Over 44 pounds and not over 45 pounds..... | | 36 | 38 | 40 | 42 | 45 |
| Over 45 pounds and not over 46 pounds..... | | 36 | 38 | 41 | 43 | 45 |
| Over 46 pounds and not over 47 pounds..... | | 36 | 39 | 41 | 43 | 46 |
| Over 47 pounds and not over 48 pounds..... | | 37 | 39 | 42 | 44 | 46 |
| Over 48 pounds and not over 49 pounds..... | | 37 | 40 | 42 | 44 | 47 |
| Over 49 pounds and not over 50 pounds..... | | 37 | 40 | 42 | 45 | 47 |
| Over 50 pounds and not over 51 pounds..... | | 38 | 40 | 43 | 45 | 48 |
| Over 51 pounds and not over 52 pounds..... | | 38 | 41 | 43 | 46 | 49 |
| Over 52 pounds and not over 53 pounds..... | | 39 | 41 | 44 | 46 | 49 |
| Over 53 pounds and not over 54 pounds..... | | 39 | 42 | 44 | 47 | 50 |
| Over 54 pounds and not over 55 pounds..... | | 39 | 42 | 45 | 47 | 50 |
| Over 55 pounds and not over 56 pounds..... | | 40 | 42 | 45 | 48 | 51 |
| Over 56 pounds and not over 57 pounds..... | | 40 | 43 | 46 | 48 | 51 |

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Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|----|-------------------------------|----|----|----|----|
| | | 6 | 7 | 8 | 9 | 10 |
| Over 57 pounds and not over 58 pounds..... | 40 | 43 | 46 | 49 | 52 | |
| Over 58 pounds and not over 59 pounds..... | 41 | 44 | 47 | 49 | 52 | |
| Over 59 pounds and not over 60 pounds..... | 41 | 44 | 47 | 50 | 53 | |
| Over 60 pounds and not over 61 pounds..... | 41 | 44 | 47 | 50 | 54 | |
| Over 61 pounds and not over 62 pounds..... | 42 | 45 | 48 | 51 | 54 | |
| Over 62 pounds and not over 63 pounds..... | 42 | 45 | 48 | 51 | 55 | |
| Over 63 pounds and not over 64 pounds..... | 42 | 46 | 49 | 52 | 55 | |
| Over 64 pounds and not over 65 pounds..... | 43 | 46 | 49 | 52 | 56 | |
| Over 65 pounds and not over 66 pounds..... | 43 | 46 | 50 | 53 | 56 | |
| Over 66 pounds and not over 67 pounds..... | 43 | 47 | 50 | 53 | 57 | |
| Over 67 pounds and not over 68 pounds..... | 44 | 47 | 51 | 54 | 57 | |
| Over 68 pounds and not over 69 pounds..... | 44 | 48 | 51 | 54 | 58 | |
| Over 69 pounds and not over 70 pounds..... | 44 | 48 | 51 | 55 | 58 | |
| Over 70 pounds and not over 71 pounds..... | 45 | 48 | 52 | 55 | 59 | |
| Over 71 pounds and not over 72 pounds..... | 45 | 49 | 52 | 56 | 60 | |
| Over 72 pounds and not over 73 pounds..... | 46 | 49 | 53 | 56 | 60 | |
| Over 73 pounds and not over 74 pounds..... | 46 | 50 | 53 | 57 | 61 | |
| Over 74 pounds and not over 75 pounds..... | 46 | 50 | 54 | 57 | 61 | |
| Over 75 pounds and not over 76 pounds..... | 47 | 50 | 54 | 58 | 62 | |
| Over 76 pounds and not over 77 pounds..... | 47 | 51 | 55 | 58 | 62 | |
| Over 77 pounds and not over 78 pounds..... | 47 | 51 | 55 | 59 | 63 | |
| Over 78 pounds and not over 79 pounds..... | 48 | 52 | 56 | 59 | 63 | |
| Over 79 pounds and not over 80 pounds..... | 48 | 52 | 56 | 60 | 64 | |
| Over 80 pounds and not over 81 pounds..... | 48 | 52 | 56 | 60 | 65 | |
| Over 81 pounds and not over 82 pounds..... | 49 | 53 | 57 | 61 | 65 | |
| Over 82 pounds and not over 83 pounds..... | 49 | 53 | 57 | 61 | 66 | |
| Over 83 pounds and not over 84 pounds..... | 49 | 54 | 58 | 62 | 66 | |
| Over 84 pounds and not over 85 pounds..... | 50 | 54 | 58 | 62 | 67 | |
| Over 85 pounds and not over 86 pounds..... | 50 | 54 | 59 | 63 | 67 | |
| Over 86 pounds and not over 87 pounds..... | 50 | 55 | 59 | 63 | 68 | |
| Over 87 pounds and not over 88 pounds..... | 51 | 55 | 60 | 64 | 68 | |
| Over 88 pounds and not over 89 pounds..... | 51 | 56 | 60 | 64 | 69 | |
| Over 89 pounds and not over 90 pounds..... | 51 | 56 | 60 | 65 | 69 | |
| Over 90 pounds and not over 91 pounds..... | 52 | 56 | 61 | 65 | 70 | |
| Over 91 pounds and not over 92 pounds..... | 52 | 57 | 61 | 66 | 71 | |
| Over 92 pounds and not over 93 pounds..... | 53 | 57 | 62 | 66 | 71 | |
| Over 93 pounds and not over 94 pounds..... | 53 | 58 | 62 | 67 | 72 | |
| Over 94 pounds and not over 95 pounds..... | 53 | 58 | 63 | 67 | 72 | |
| Over 95 pounds and not over 96 pounds..... | 54 | 58 | 63 | 68 | 73 | |
| Over 96 pounds and not over 97 pounds..... | 54 | 59 | 64 | 68 | 73 | |
| Over 97 pounds and not over 98 pounds..... | 54 | 59 | 64 | 69 | 74 | |
| Over 98 pounds and not over 99 pounds..... | 55 | 60 | 65 | 69 | 74 | |
| Over 99 pounds and not over 100 pounds..... | 55 | 60 | 65 | 70 | 75 | |
| Over 100 pounds, pound rates..... | 55 | 60 | 65 | 70 | 75 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 11 | 12 | 13 | 14 | 15 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 6 pounds and not over 7 pounds..... | | 25 | 25 | 25 | 25 | 26 |
| Over 7 pounds and not over 8 pounds..... | | 25 | 25 | 26 | 26 | 26 |
| Over 8 pounds and not over 9 pounds..... | | 25 | 26 | 26 | 27 | 27 |
| Over 9 pounds and not over 10 pounds..... | | 26 | 26 | 27 | 27 | 28 |
| Over 10 pounds and not over 11 pounds..... | | 27 | 27 | 28 | 28 | 29 |
| Over 11 pounds and not over 12 pounds..... | | 27 | 28 | 28 | 29 | 30 |
| Over 12 pounds and not over 13 pounds..... | | 28 | 28 | 29 | 30 | 30 |
| Over 13 pounds and not over 14 pounds..... | | 28 | 29 | 30 | 30 | 31 |
| Over 14 pounds and not over 15 pounds..... | | 29 | 30 | 30 | 31 | 32 |
| Over 15 pounds and not over 16 pounds..... | | 30 | 30 | 31 | 32 | 33 |
| Over 16 pounds and not over 17 pounds..... | | 30 | 31 | 32 | 33 | 34 |
| Over 17 pounds and not over 18 pounds..... | | 31 | 32 | 33 | 33 | 34 |
| Over 18 pounds and not over 19 pounds..... | | 31 | 32 | 33 | 34 | 35 |
| Over 19 pounds and not over 20 pounds..... | | 32 | 33 | 34 | 35 | 36 |
| Over 20 pounds and not over 21 pounds..... | | 33 | 34 | 35 | 36 | 37 |
| Over 21 pounds and not over 22 pounds..... | | 33 | 34 | 35 | 36 | 38 |
| Over 22 pounds and not over 23 pounds..... | | 34 | 35 | 36 | 37 | 38 |
| Over 23 pounds and not over 24 pounds..... | | 34 | 36 | 37 | 38 | 39 |
| Over 24 pounds and not over 25 pounds..... | | 35 | 36 | 37 | 39 | 40 |
| Over 25 pounds and not over 26 pounds..... | | 36 | 37 | 38 | 39 | 41 |
| Over 26 pounds and not over 27 pounds..... | | 36 | 38 | 39 | 40 | 42 |
| Over 27 pounds and not over 28 pounds..... | | 37 | 38 | 40 | 41 | 42 |
| Over 28 pounds and not over 29 pounds..... | | 37 | 39 | 40 | 42 | 43 |
| Over 29 pounds and not over 30 pounds..... | | 38 | 39 | 41 | 42 | 44 |
| Over 30 pounds and not over 31 pounds..... | | 39 | 40 | 42 | 43 | 45 |
| Over 31 pounds and not over 32 pounds..... | | 39 | 41 | 42 | 44 | 46 |
| Over 32 pounds and not over 33 pounds..... | | 40 | 41 | 43 | 45 | 46 |
| Over 33 pounds and not over 34 pounds..... | | 40 | 42 | 44 | 45 | 47 |
| Over 34 pounds and not over 35 pounds..... | | 41 | 43 | 44 | 46 | 48 |
| Over 35 pounds and not over 36 pounds..... | | 42 | 43 | 45 | 47 | 49 |
| Over 36 pounds and not over 37 pounds..... | | 42 | 44 | 46 | 48 | 50 |
| Over 37 pounds and not over 38 pounds..... | | 43 | 45 | 47 | 48 | 50 |
| Over 38 pounds and not over 39 pounds..... | | 43 | 45 | 47 | 49 | 51 |
| Over 39 pounds and not over 40 pounds..... | | 44 | 46 | 48 | 50 | 52 |
| Over 40 pounds and not over 41 pounds..... | | 45 | 47 | 49 | 51 | 53 |
| Over 41 pounds and not over 42 pounds..... | | 45 | 47 | 49 | 51 | 54 |
| Over 42 pounds and not over 43 pounds..... | | 46 | 48 | 50 | 52 | 54 |
| Over 43 pounds and not over 44 pounds..... | | 46 | 49 | 51 | 53 | 55 |
| Over 44 pounds and not over 45 pounds..... | | 47 | 49 | 51 | 54 | 56 |
| Over 45 pounds and not over 46 pounds..... | | 48 | 50 | 52 | 54 | 57 |
| Over 46 pounds and not over 47 pounds..... | | 48 | 51 | 53 | 55 | 58 |
| Over 47 pounds and not over 48 pounds..... | | 49 | 51 | 54 | 56 | 58 |
| Over 48 pounds and not over 49 pounds..... | | 49 | 52 | 54 | 57 | 59 |
| Over 49 pounds and not over 50 pounds..... | | 50 | 52 | 55 | 57 | 60 |
| Over 50 pounds and not over 51 pounds..... | | 51 | 53 | 56 | 58 | 61 |
| Over 51 pounds and not over 52 pounds..... | | 51 | 54 | 56 | 59 | 62 |
| Over 52 pounds and not over 53 pounds..... | | 52 | 54 | 57 | 60 | 62 |
| Over 53 pounds and not over 54 pounds..... | | 52 | 55 | 58 | 60 | 63 |
| Over 54 pounds and not over 55 pounds..... | | 53 | 56 | 58 | 61 | 64 |
| Over 55 pounds and not over 56 pounds..... | | 54 | 56 | 59 | 62 | 65 |
| Over 56 pounds and not over 57 pounds..... | | 54 | 57 | 60 | 63 | 66 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|--|-------------------------------|----|----|----|----|
| | | 6 | 7 | 8 | 9 | 10 |
| Over 57 pounds and not over 58 pounds..... | | 40 | 43 | 46 | 49 | 52 |
| Over 58 pounds and not over 59 pounds..... | | 41 | 44 | 47 | 49 | 52 |
| Over 59 pounds and not over 60 pounds..... | | 41 | 44 | 47 | 50 | 53 |
| Over 60 pounds and not over 61 pounds..... | | 41 | 44 | 47 | 50 | 54 |
| Over 61 pounds and not over 62 pounds..... | | 42 | 45 | 48 | 51 | 54 |
| Over 62 pounds and not over 63 pounds..... | | 42 | 45 | 48 | 51 | 55 |
| Over 63 pounds and not over 64 pounds..... | | 42 | 46 | 49 | 52 | 55 |
| Over 64 pounds and not over 65 pounds..... | | 43 | 46 | 49 | 52 | 56 |
| Over 65 pounds and not over 66 pounds..... | | 43 | 46 | 50 | 53 | 56 |
| Over 66 pounds and not over 67 pounds..... | | 43 | 47 | 50 | 53 | 57 |
| Over 67 pounds and not over 68 pounds..... | | 44 | 47 | 51 | 54 | 57 |
| Over 68 pounds and not over 69 pounds..... | | 44 | 48 | 51 | 54 | 58 |
| Over 69 pounds and not over 70 pounds..... | | 44 | 48 | 51 | 55 | 58 |
| Over 70 pounds and not over 71 pounds..... | | 45 | 48 | 52 | 55 | 59 |
| Over 71 pounds and not over 72 pounds..... | | 45 | 49 | 52 | 56 | 60 |
| Over 72 pounds and not over 73 pounds..... | | 46 | 49 | 53 | 56 | 60 |
| Over 73 pounds and not over 74 pounds..... | | 46 | 50 | 53 | 57 | 61 |
| Over 74 pounds and not over 75 pounds..... | | 46 | 50 | 54 | 57 | 61 |
| Over 75 pounds and not over 76 pounds..... | | 47 | 50 | 54 | 58 | 62 |
| Over 76 pounds and not over 77 pounds..... | | 47 | 51 | 55 | 58 | 62 |
| Over 77 pounds and not over 78 pounds..... | | 47 | 51 | 55 | 59 | 63 |
| Over 78 pounds and not over 79 pounds..... | | 48 | 52 | 56 | 59 | 63 |
| Over 79 pounds and not over 80 pounds..... | | 48 | 52 | 56 | 60 | 64 |
| Over 80 pounds and not over 81 pounds..... | | 48 | 52 | 56 | 60 | 65 |
| Over 81 pounds and not over 82 pounds..... | | 49 | 53 | 57 | 61 | 65 |
| Over 82 pounds and not over 83 pounds..... | | 49 | 53 | 57 | 61 | 66 |
| Over 83 pounds and not over 84 pounds..... | | 49 | 54 | 58 | 62 | 66 |
| Over 84 pounds and not over 85 pounds..... | | 50 | 54 | 58 | 62 | 67 |
| Over 85 pounds and not over 86 pounds..... | | 50 | 54 | 59 | 63 | 67 |
| Over 86 pounds and not over 87 pounds..... | | 50 | 55 | 59 | 63 | 68 |
| Over 87 pounds and not over 88 pounds..... | | 51 | 55 | 60 | 64 | 68 |
| Over 88 pounds and not over 89 pounds..... | | 51 | 56 | 60 | 64 | 69 |
| Over 89 pounds and not over 90 pounds..... | | 51 | 56 | 60 | 65 | 69 |
| Over 90 pounds and not over 91 pounds..... | | 52 | 56 | 61 | 65 | 70 |
| Over 91 pounds and not over 92 pounds..... | | 52 | 57 | 61 | 66 | 71 |
| Over 92 pounds and not over 93 pounds..... | | 53 | 57 | 62 | 66 | 71 |
| Over 93 pounds and not over 94 pounds..... | | 53 | 58 | 62 | 67 | 72 |
| Over 94 pounds and not over 95 pounds..... | | 53 | 58 | 63 | 67 | 72 |
| Over 95 pounds and not over 96 pounds..... | | 54 | 58 | 63 | 68 | 73 |
| Over 96 pounds and not over 97 pounds..... | | 54 | 59 | 64 | 68 | 73 |
| Over 97 pounds and not over 98 pounds..... | | 54 | 59 | 64 | 69 | 74 |
| Over 98 pounds and not over 99 pounds..... | | 55 | 60 | 65 | 69 | 74 |
| Over 99 pounds and not over 100 pounds..... | | 55 | 60 | 65 | 70 | 75 |
| Over 100 pounds, pound rates..... | | 55 | 60 | 65 | 70 | 75 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 11 | 12 | 13 | 14 | 15 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 6 pounds and not over 7 pounds..... | | 25 | 25 | 25 | 25 | 26 |
| Over 7 pounds and not over 8 pounds..... | | 25 | 25 | 26 | 26 | 26 |
| Over 8 pounds and not over 9 pounds..... | | 25 | 26 | 26 | 27 | 27 |
| Over 9 pounds and not over 10 pounds..... | | 26 | 26 | 27 | 27 | 28 |
| Over 10 pounds and not over 11 pounds..... | | 27 | 27 | 28 | 28 | 29 |
| Over 11 pounds and not over 12 pounds..... | | 27 | 28 | 28 | 29 | 30 |
| Over 12 pounds and not over 13 pounds..... | | 28 | 28 | 29 | 30 | 30 |
| Over 13 pounds and not over 14 pounds..... | | 28 | 29 | 30 | 30 | 31 |
| Over 14 pounds and not over 15 pounds..... | | 29 | 30 | 30 | 31 | 32 |
| Over 15 pounds and not over 16 pounds..... | | 30 | 30 | 31 | 32 | 33 |
| Over 16 pounds and not over 17 pounds..... | | 30 | 31 | 32 | 33 | 34 |
| Over 17 pounds and not over 18 pounds..... | | 31 | 32 | 33 | 33 | 34 |
| Over 18 pounds and not over 19 pounds..... | | 31 | 32 | 33 | 34 | 35 |
| Over 19 pounds and not over 20 pounds..... | | 32 | 33 | 34 | 35 | 36 |
| Over 20 pounds and not over 21 pounds..... | | 33 | 34 | 35 | 36 | 37 |
| Over 21 pounds and not over 22 pounds..... | | 33 | 34 | 35 | 36 | 38 |
| Over 22 pounds and not over 23 pounds..... | | 34 | 35 | 36 | 37 | 38 |
| Over 23 pounds and not over 24 pounds..... | | 34 | 36 | 37 | 38 | 39 |
| Over 24 pounds and not over 25 pounds..... | | 35 | 36 | 37 | 39 | 40 |
| Over 25 pounds and not over 26 pounds..... | | 36 | 37 | 38 | 39 | 41 |
| Over 26 pounds and not over 27 pounds..... | | 36 | 38 | 39 | 40 | 42 |
| Over 27 pounds and not over 28 pounds..... | | 37 | 38 | 40 | 41 | 42 |
| Over 28 pounds and not over 29 pounds..... | | 37 | 39 | 40 | 42 | 43 |
| Over 29 pounds and not over 30 pounds..... | | 38 | 39 | 41 | 42 | 44 |
| Over 30 pounds and not over 31 pounds..... | | 39 | 40 | 42 | 43 | 45 |
| Over 31 pounds and not over 32 pounds..... | | 39 | 41 | 42 | 44 | 46 |
| Over 32 pounds and not over 33 pounds..... | | 40 | 41 | 43 | 45 | 46 |
| Over 33 pounds and not over 34 pounds..... | | 40 | 42 | 44 | 45 | 47 |
| Over 34 pounds and not over 35 pounds..... | | 41 | 43 | 44 | 46 | 48 |
| Over 35 pounds and not over 36 pounds..... | | 42 | 43 | 45 | 47 | 49 |
| Over 36 pounds and not over 37 pounds..... | | 42 | 44 | 46 | 48 | 50 |
| Over 37 pounds and not over 38 pounds..... | | 43 | 45 | 47 | 48 | 50 |
| Over 38 pounds and not over 39 pounds..... | | 43 | 45 | 47 | 49 | 51 |
| Over 39 pounds and not over 40 pounds..... | | 44 | 46 | 48 | 50 | 52 |
| Over 40 pounds and not over 41 pounds..... | | 45 | 47 | 49 | 51 | 53 |
| Over 41 pounds and not over 42 pounds..... | | 45 | 47 | 49 | 51 | 54 |
| Over 42 pounds and not over 43 pounds..... | | 46 | 48 | 50 | 52 | 54 |
| Over 43 pounds and not over 44 pounds..... | | 46 | 49 | 51 | 53 | 55 |
| Over 44 pounds and not over 45 pounds..... | | 47 | 49 | 51 | 54 | 56 |
| Over 45 pounds and not over 46 pounds..... | | 48 | 50 | 52 | 54 | 57 |
| Over 46 pounds and not over 47 pounds..... | | 48 | 51 | 53 | 55 | 58 |
| Over 47 pounds and not over 48 pounds..... | | 49 | 51 | 54 | 56 | 58 |
| Over 48 pounds and not over 49 pounds..... | | 49 | 52 | 54 | 57 | 59 |
| Over 49 pounds and not over 50 pounds..... | | 50 | 52 | 55 | 57 | 60 |
| Over 50 pounds and not over 51 pounds..... | | 51 | 53 | 56 | 58 | 61 |
| Over 51 pounds and not over 52 pounds..... | | 51 | 54 | 56 | 59 | 62 |
| Over 52 pounds and not over 53 pounds..... | | 52 | 54 | 57 | 60 | 62 |
| Over 53 pounds and not over 54 pounds..... | | 52 | 55 | 58 | 60 | 63 |
| Over 54 pounds and not over 55 pounds..... | | 53 | 56 | 58 | 61 | 64 |
| Over 55 pounds and not over 56 pounds..... | | 54 | 56 | 59 | 62 | 65 |
| Over 56 pounds and not over 57 pounds..... | | 54 | 57 | 60 | 63 | 66 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|----|-------------------------------|----|----|-----|-----|
| | | 11 | 12 | 13 | 14 | 15 |
| Over 57 pounds and not over 58 pounds..... | 55 | 58 | 61 | 63 | 66 | 66 |
| Over 58 pounds and not over 59 pounds..... | 55 | 58 | 61 | 64 | 67 | 67 |
| Over 59 pounds and not over 60 pounds..... | 56 | 59 | 62 | 65 | 68 | 68 |
| Over 60 pounds and not over 61 pounds..... | 57 | 60 | 63 | 66 | 69 | 69 |
| Over 61 pounds and not over 62 pounds..... | 57 | 60 | 63 | 66 | 70 | 70 |
| Over 62 pounds and not over 63 pounds..... | 58 | 61 | 64 | 67 | 70 | 70 |
| Over 63 pounds and not over 64 pounds..... | 58 | 62 | 65 | 68 | 71 | 71 |
| Over 64 pounds and not over 65 pounds..... | 59 | 62 | 65 | 69 | 72 | 72 |
| Over 65 pounds and not over 66 pounds..... | 60 | 63 | 66 | 69 | 73 | 73 |
| Over 66 pounds and not over 67 pounds..... | 60 | 64 | 67 | 70 | 74 | 74 |
| Over 67 pounds and not over 68 pounds..... | 61 | 64 | 68 | 71 | 74 | 74 |
| Over 68 pounds and not over 69 pounds..... | 61 | 65 | 68 | 72 | 75 | 75 |
| Over 69 pounds and not over 70 pounds..... | 62 | 65 | 69 | 72 | 76 | 76 |
| Over 70 pounds and not over 71 pounds..... | 63 | 66 | 70 | 73 | 77 | 77 |
| Over 71 pounds and not over 72 pounds..... | 63 | 67 | 70 | 74 | 78 | 78 |
| Over 72 pounds and not over 73 pounds..... | 64 | 67 | 71 | 75 | 78 | 78 |
| Over 73 pounds and not over 74 pounds..... | 64 | 68 | 72 | 75 | 79 | 79 |
| Over 74 pounds and not over 75 pounds..... | 65 | 69 | 72 | 76 | 80 | 80 |
| Over 75 pounds and not over 76 pounds..... | 66 | 69 | 73 | 77 | 81 | 81 |
| Over 76 pounds and not over 77 pounds..... | 66 | 70 | 74 | 78 | 82 | 82 |
| Over 77 pounds and not over 78 pounds..... | 67 | 71 | 75 | 78 | 82 | 82 |
| Over 78 pounds and not over 79 pounds..... | 67 | 71 | 75 | 79 | 83 | 83 |
| Over 79 pounds and not over 80 pounds..... | 68 | 72 | 76 | 80 | 84 | 84 |
| Over 80 pounds and not over 81 pounds..... | 69 | 73 | 77 | 81 | 85 | 85 |
| Over 81 pounds and not over 82 pounds..... | 69 | 73 | 77 | 81 | 86 | 86 |
| Over 82 pounds and not over 83 pounds..... | 70 | 74 | 78 | 82 | 86 | 86 |
| Over 83 pounds and not over 84 pounds..... | 70 | 75 | 79 | 83 | 87 | 87 |
| Over 84 pounds and not over 85 pounds..... | 71 | 75 | 79 | 84 | 88 | 88 |
| Over 85 pounds and not over 86 pounds..... | 72 | 76 | 80 | 84 | 89 | 89 |
| Over 86 pounds and not over 87 pounds..... | 72 | 77 | 81 | 85 | 90 | 90 |
| Over 87 pounds and not over 88 pounds..... | 73 | 77 | 82 | 86 | 90 | 90 |
| Over 88 pounds and not over 89 pounds..... | 73 | 78 | 82 | 87 | 91 | 91 |
| Over 89 pounds and not over 90 pounds..... | 74 | 78 | 83 | 87 | 92 | 92 |
| Over 90 pounds and not over 91 pounds..... | 75 | 79 | 84 | 88 | 93 | 93 |
| Over 91 pounds and not over 92 pounds..... | 75 | 80 | 84 | 89 | 94 | 94 |
| Over 92 pounds and not over 93 pounds..... | 76 | 80 | 85 | 90 | 94 | 94 |
| Over 93 pounds and not over 94 pounds..... | 76 | 81 | 86 | 90 | 95 | 95 |
| Over 94 pounds and not over 95 pounds..... | 77 | 82 | 86 | 91 | 96 | 96 |
| Over 95 pounds and not over 96 pounds..... | 78 | 82 | 87 | 92 | 97 | 97 |
| Over 96 pounds and not over 97 pounds..... | 78 | 83 | 88 | 93 | 98 | 98 |
| Over 97 pounds and not over 98 pounds..... | 79 | 84 | 89 | 93 | 98 | 98 |
| Over 98 pounds and not over 99 pounds..... | 79 | 84 | 89 | 94 | 99 | 99 |
| Over 99 pounds and not over 100 pounds..... | 80 | 85 | 90 | 95 | 100 | 100 |
| Over 100 pounds, pound rates..... | 80 | 85 | 90 | 95 | 100 | 100 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 16 | 17 | 18 | 19 | 20 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | | 25 | 25 | 26 | 26 | 26 |
| Over 6 pounds and not over 7 pounds..... | | 26 | 26 | 27 | 27 | 27 |
| Over 7 pounds and not over 8 pounds..... | | 27 | 27 | 28 | 28 | 28 |
| Over 8 pounds and not over 9 pounds..... | | 28 | 28 | 29 | 29 | 29 |
| Over 9 pounds and not over 10 pounds..... | | 28 | 29 | 29 | 30 | 30 |
| Over 10 pounds and not over 11 pounds..... | | 29 | 30 | 30 | 31 | 32 |
| Over 11 pounds and not over 12 pounds..... | | 30 | 31 | 31 | 32 | 33 |
| Over 12 pounds and not over 13 pounds..... | | 31 | 32 | 32 | 33 | 34 |
| Over 13 pounds and not over 14 pounds..... | | 32 | 33 | 33 | 34 | 35 |
| Over 14 pounds and not over 15 pounds..... | | 33 | 33 | 34 | 35 | 36 |
| Over 15 pounds and not over 16 pounds..... | | 34 | 34 | 35 | 36 | 37 |
| Over 16 pounds and not over 17 pounds..... | | 34 | 35 | 36 | 37 | 38 |
| Over 17 pounds and not over 18 pounds..... | | 35 | 36 | 37 | 38 | 39 |
| Over 18 pounds and not over 19 pounds..... | | 36 | 37 | 38 | 39 | 40 |
| Over 19 pounds and not over 20 pounds..... | | 37 | 38 | 39 | 40 | 41 |
| Over 20 pounds and not over 21 pounds..... | | 38 | 39 | 40 | 41 | 42 |
| Over 21 pounds and not over 22 pounds..... | | 39 | 40 | 41 | 42 | 43 |
| Over 22 pounds and not over 23 pounds..... | | 40 | 41 | 42 | 43 | 44 |
| Over 23 pounds and not over 24 pounds..... | | 40 | 42 | 43 | 44 | 45 |
| Over 24 pounds and not over 25 pounds..... | | 41 | 42 | 44 | 45 | 46 |
| Over 25 pounds and not over 26 pounds..... | | 42 | 43 | 45 | 46 | 47 |
| Over 26 pounds and not over 27 pounds..... | | 43 | 44 | 46 | 47 | 48 |
| Over 27 pounds and not over 28 pounds..... | | 44 | 45 | 47 | 48 | 49 |
| Over 28 pounds and not over 29 pounds..... | | 45 | 46 | 48 | 49 | 50 |
| Over 29 pounds and not over 30 pounds..... | | 45 | 47 | 48 | 50 | 51 |
| Over 30 pounds and not over 31 pounds..... | | 46 | 48 | 49 | 51 | 53 |
| Over 31 pounds and not over 32 pounds..... | | 47 | 49 | 50 | 52 | 54 |
| Over 32 pounds and not over 33 pounds..... | | 48 | 50 | 51 | 53 | 55 |
| Over 33 pounds and not over 34 pounds..... | | 49 | 51 | 52 | 54 | 56 |
| Over 34 pounds and not over 35 pounds..... | | 50 | 51 | 52 | 55 | 57 |
| Over 35 pounds and not over 36 pounds..... | | 51 | 52 | 54 | 56 | 58 |
| Over 36 pounds and not over 37 pounds..... | | 51 | 53 | 55 | 57 | 59 |
| Over 37 pounds and not over 38 pounds..... | | 52 | 54 | 56 | 58 | 60 |
| Over 38 pounds and not over 39 pounds..... | | 53 | 55 | 57 | 59 | 61 |
| Over 39 pounds and not over 40 pounds..... | | 54 | 56 | 58 | 60 | 62 |
| Over 40 pounds and not over 41 pounds..... | | 55 | 57 | 59 | 61 | 63 |
| Over 41 pounds and not over 42 pounds..... | | 56 | 58 | 60 | 62 | 64 |
| Over 42 pounds and not over 43 pounds..... | | 57 | 59 | 61 | 63 | 65 |
| Over 43 pounds and not over 44 pounds..... | | 57 | 60 | 62 | 64 | 66 |
| Over 44 pounds and not over 45 pounds..... | | 58 | 60 | 63 | 65 | 67 |
| Over 45 pounds and not over 46 pounds..... | | 59 | 61 | 64 | 66 | 68 |
| Over 46 pounds and not over 47 pounds..... | | 60 | 62 | 65 | 67 | 69 |
| Over 47 pounds and not over 48 pounds..... | | 61 | 63 | 66 | 68 | 70 |
| Over 48 pounds and not over 49 pounds..... | | 62 | 64 | 67 | 69 | 71 |
| Over 49 pounds and not over 50 pounds..... | | 62 | 65 | 67 | 70 | 72 |
| Over 50 pounds and not over 51 pounds..... | | 63 | 66 | 68 | 71 | 74 |
| Over 51 pounds and not over 52 pounds..... | | 64 | 67 | 69 | 72 | 75 |
| Over 52 pounds and not over 53 pounds..... | | 65 | 68 | 70 | 73 | 76 |
| Over 53 pounds and not over 54 pounds..... | | 66 | 69 | 71 | 74 | 77 |
| Over 54 pounds and not over 55 pounds..... | | 67 | 69 | 72 | 75 | 78 |
| Over 55 pounds and not over 56 pounds..... | | 68 | 70 | 73 | 76 | 79 |
| Over 56 pounds and not over 57 pounds..... | | 68 | 71 | 74 | 77 | 80 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-----|-------------------------------|-----|-----|-----|----|
| | | 16 | 17 | 18 | 19 | 20 |
| Over 57 pounds and not over 58 pounds | 69 | 72 | 75 | 78 | 81 | |
| Over 58 pounds and not over 59 pounds | 70 | 73 | 76 | 79 | 82 | |
| Over 59 pounds and not over 60 pounds | 71 | 74 | 77 | 80 | 83 | |
| Over 60 pounds and not over 61 pounds | 72 | 75 | 78 | 81 | 84 | |
| Over 61 pounds and not over 62 pounds | 73 | 76 | 79 | 82 | 85 | |
| Over 62 pounds and not over 63 pounds | 74 | 77 | 80 | 83 | 86 | |
| Over 63 pounds and not over 64 pounds | 74 | 78 | 81 | 84 | 87 | |
| Over 64 pounds and not over 65 pounds | 75 | 78 | 82 | 85 | 88 | |
| Over 65 pounds and not over 66 pounds | 76 | 79 | 83 | 86 | 89 | |
| Over 66 pounds and not over 67 pounds | 77 | 80 | 84 | 87 | 90 | |
| Over 67 pounds and not over 68 pounds | 78 | 81 | 85 | 88 | 91 | |
| Over 68 pounds and not over 69 pounds | 79 | 82 | 86 | 89 | 92 | |
| Over 69 pounds and not over 70 pounds | 79 | 83 | 86 | 90 | 93 | |
| Over 70 pounds and not over 71 pounds | 80 | 84 | 87 | 91 | 95 | |
| Over 71 pounds and not over 72 pounds | 81 | 85 | 88 | 92 | 96 | |
| Over 72 pounds and not over 73 pounds | 82 | 86 | 89 | 93 | 97 | |
| Over 73 pounds and not over 74 pounds | 83 | 87 | 90 | 94 | 98 | |
| Over 74 pounds and not over 75 pounds | 84 | 87 | 91 | 95 | 99 | |
| Over 75 pounds and not over 76 pounds | 85 | 88 | 92 | 96 | 100 | |
| Over 76 pounds and not over 77 pounds | 85 | 89 | 93 | 97 | 101 | |
| Over 77 pounds and not over 78 pounds | 86 | 90 | 94 | 98 | 102 | |
| Over 78 pounds and not over 79 pounds | 87 | 91 | 95 | 99 | 103 | |
| Over 79 pounds and not over 80 pounds | 88 | 92 | 96 | 100 | 104 | |
| Over 80 pounds and not over 81 pounds | 89 | 93 | 97 | 101 | 105 | |
| Over 81 pounds and not over 82 pounds | 90 | 94 | 98 | 102 | 106 | |
| Over 82 pounds and not over 83 pounds | 91 | 95 | 99 | 103 | 107 | |
| Over 83 pounds and not over 84 pounds | 91 | 96 | 100 | 104 | 108 | |
| Over 84 pounds and not over 85 pounds | 92 | 96 | 101 | 105 | 109 | |
| Over 85 pounds and not over 86 pounds | 93 | 97 | 102 | 106 | 110 | |
| Over 86 pounds and not over 87 pounds | 94 | 98 | 103 | 107 | 111 | |
| Over 87 pounds and not over 88 pounds | 95 | 99 | 104 | 108 | 112 | |
| Over 88 pounds and not over 89 pounds | 96 | 100 | 105 | 109 | 113 | |
| Over 89 pounds and not over 90 pounds | 96 | 101 | 105 | 110 | 114 | |
| Over 90 pounds and not over 91 pounds | 97 | 102 | 106 | 111 | 116 | |
| Over 91 pounds and not over 92 pounds | 98 | 103 | 107 | 112 | 117 | |
| Over 92 pounds and not over 93 pounds | 99 | 104 | 108 | 113 | 118 | |
| Over 93 pounds and not over 94 pounds | 100 | 105 | 109 | 114 | 119 | |
| Over 94 pounds and not over 95 pounds | 101 | 105 | 110 | 115 | 120 | |
| Over 95 pounds and not over 96 pounds | 102 | 106 | 111 | 116 | 121 | |
| Over 96 pounds and not over 97 pounds | 102 | 107 | 112 | 117 | 122 | |
| Over 97 pounds and not over 98 pounds | 103 | 108 | 113 | 118 | 123 | |
| Over 98 pounds and not over 99 pounds | 104 | 109 | 114 | 119 | 124 | |
| Over 99 pounds and not over 100 pounds | 105 | 110 | 115 | 120 | 125 | |
| Over 100 pounds, pound rates | 105 | 110 | 115 | 120 | 125 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 21 | 22 | 23 | 24 | 25 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 26 | 26 | 26 | 26 |
| Over 5 pounds and not over 6 pounds..... | | 27 | 27 | 27 | 27 | 28 |
| Over 6 pounds and not over 7 pounds..... | | 28 | 28 | 28 | 29 | 29 |
| Over 7 pounds and not over 8 pounds..... | | 29 | 29 | 30 | 30 | 30 |
| Over 8 pounds and not over 9 pounds..... | | 30 | 30 | 31 | 31 | 32 |
| Over 9 pounds and not over 10 pounds..... | | 31 | 31 | 32 | 32 | 33 |
| Over 10 pounds and not over 11 pounds..... | | 32 | 33 | 33 | 34 | 34 |
| Over 11 pounds and not over 12 pounds..... | | 33 | 34 | 34 | 35 | 36 |
| Over 12 pounds and not over 13 pounds..... | | 34 | 35 | 36 | 36 | 37 |
| Over 13 pounds and not over 14 pounds..... | | 35 | 36 | 37 | 37 | 38 |
| Over 14 pounds and not over 15 pounds..... | | 36 | 37 | 38 | 39 | 39 |
| Over 15 pounds and not over 16 pounds..... | | 38 | 38 | 39 | 40 | 41 |
| Over 16 pounds and not over 17 pounds..... | | 39 | 40 | 40 | 41 | 42 |
| Over 17 pounds and not over 18 pounds..... | | 40 | 41 | 42 | 42 | 43 |
| Over 18 pounds and not over 19 pounds..... | | 41 | 42 | 43 | 44 | 45 |
| Over 19 pounds and not over 20 pounds..... | | 42 | 43 | 44 | 45 | 46 |
| Over 20 pounds and not over 21 pounds..... | | 43 | 44 | 45 | 46 | 47 |
| Over 21 pounds and not over 22 pounds..... | | 44 | 45 | 46 | 47 | 49 |
| Over 22 pounds and not over 23 pounds..... | | 45 | 46 | 48 | 49 | 50 |
| Over 23 pounds and not over 24 pounds..... | | 46 | 48 | 49 | 50 | 51 |
| Over 24 pounds and not over 25 pounds..... | | 47 | 49 | 50 | 51 | 52 |
| Over 25 pounds and not over 26 pounds..... | | 49 | 50 | 51 | 52 | 54 |
| Over 26 pounds and not over 27 pounds..... | | 50 | 51 | 52 | 54 | 55 |
| Over 27 pounds and not over 28 pounds..... | | 51 | 52 | 54 | 55 | 56 |
| Over 28 pounds and not over 29 pounds..... | | 52 | 53 | 55 | 56 | 58 |
| Over 29 pounds and not over 30 pounds..... | | 53 | 54 | 56 | 57 | 59 |
| Over 30 pounds and not over 31 pounds..... | | 54 | 56 | 57 | 59 | 60 |
| Over 31 pounds and not over 32 pounds..... | | 55 | 57 | 58 | 60 | 62 |
| Over 32 pounds and not over 33 pounds..... | | 56 | 58 | 60 | 61 | 63 |
| Over 33 pounds and not over 34 pounds..... | | 57 | 59 | 61 | 62 | 64 |
| Over 34 pounds and not over 35 pounds..... | | 58 | 60 | 62 | 64 | 65 |
| Over 35 pounds and not over 36 pounds..... | | 60 | 61 | 63 | 65 | 67 |
| Over 36 pounds and not over 37 pounds..... | | 61 | 63 | 64 | 66 | 68 |
| Over 37 pounds and not over 38 pounds..... | | 62 | 64 | 66 | 67 | 69 |
| Over 38 pounds and not over 39 pounds..... | | 63 | 65 | 67 | 69 | 71 |
| Over 39 pounds and not over 40 pounds..... | | 64 | 66 | 68 | 70 | 72 |
| Over 40 pounds and not over 41 pounds..... | | 65 | 67 | 69 | 71 | 73 |
| Over 41 pounds and not over 42 pounds..... | | 66 | 68 | 70 | 72 | 75 |
| Over 42 pounds and not over 43 pounds..... | | 67 | 69 | 72 | 74 | 76 |
| Over 43 pounds and not over 44 pounds..... | | 68 | 71 | 73 | 75 | 77 |
| Over 44 pounds and not over 45 pounds..... | | 69 | 72 | 74 | 76 | 78 |
| Over 45 pounds and not over 46 pounds..... | | 71 | 73 | 75 | 76 | 80 |
| Over 46 pounds and not over 47 pounds..... | | 72 | 74 | 76 | 79 | 81 |
| Over 47 pounds and not over 48 pounds..... | | 73 | 75 | 78 | 80 | 82 |
| Over 48 pounds and not over 49 pounds..... | | 74 | 76 | 79 | 81 | 84 |
| Over 49 pounds and not over 50 pounds..... | | 75 | 77 | 80 | 82 | 85 |
| Over 50 pounds and not over 51 pounds..... | | 76 | 79 | 81 | 84 | 86 |
| Over 51 pounds and not over 52 pounds..... | | 77 | 80 | 82 | 85 | 88 |
| Over 52 pounds and not over 53 pounds..... | | 78 | 81 | 84 | 86 | 89 |
| Over 53 pounds and not over 54 pounds..... | | 79 | 82 | 85 | 87 | 90 |
| Over 54 pounds and not over 55 pounds..... | | 80 | 83 | 86 | 89 | 91 |
| Over 55 pounds and not over 56 pounds..... | | 82 | 84 | 87 | 90 | 93 |
| Over 56 pounds and not over 57 pounds..... | | 83 | 86 | 88 | 91 | 94 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 21 | 22 | 23 | 24 | 25 |
| Over 57 pounds and not over 58 pounds | ----- | 84 | 87 | 90 | 92 | 95 |
| Over 58 pounds and not over 59 pounds | ----- | 85 | 88 | 91 | 94 | 97 |
| Over 59 pounds and not over 60 pounds | ----- | 86 | 89 | 92 | 95 | 98 |
| Over 60 pounds and not over 61 pounds | ----- | 87 | 90 | 93 | 96 | 99 |
| Over 61 pounds and not over 62 pounds | ----- | 88 | 91 | 94 | 97 | 101 |
| Over 62 pounds and not over 63 pounds | ----- | 89 | 92 | 96 | 99 | 102 |
| Over 63 pounds and not over 64 pounds | ----- | 90 | 94 | 97 | 100 | 103 |
| Over 64 pounds and not over 65 pounds | ----- | 91 | 95 | 98 | 101 | 104 |
| Over 65 pounds and not over 66 pounds | ----- | 93 | 96 | 99 | 102 | 106 |
| Over 66 pounds and not over 67 pounds | ----- | 94 | 97 | 100 | 104 | 107 |
| Over 67 pounds and not over 68 pounds | ----- | 95 | 98 | 102 | 105 | 108 |
| Over 68 pounds and not over 69 pounds | ----- | 96 | 99 | 103 | 106 | 110 |
| Over 69 pounds and not over 70 pounds | ----- | 97 | 100 | 104 | 107 | 111 |
| Over 70 pounds and not over 71 pounds | ----- | 98 | 102 | 105 | 109 | 112 |
| Over 71 pounds and not over 72 pounds | ----- | 99 | 103 | 106 | 110 | 114 |
| Over 72 pounds and not over 73 pounds | ----- | 100 | 104 | 108 | 111 | 115 |
| Over 73 pounds and not over 74 pounds | ----- | 101 | 105 | 109 | 112 | 116 |
| Over 74 pounds and not over 75 pounds | ----- | 102 | 106 | 110 | 114 | 117 |
| Over 75 pounds and not over 76 pounds | ----- | 104 | 107 | 111 | 115 | 119 |
| Over 76 pounds and not over 77 pounds | ----- | 105 | 109 | 112 | 116 | 120 |
| Over 77 pounds and not over 78 pounds | ----- | 106 | 110 | 114 | 117 | 121 |
| Over 78 pounds and not over 79 pounds | ----- | 107 | 111 | 115 | 119 | 123 |
| Over 79 pounds and not over 80 pounds | ----- | 108 | 112 | 116 | 120 | 124 |
| Over 80 pounds and not over 81 pounds | ----- | 109 | 113 | 117 | 121 | 125 |
| Over 81 pounds and not over 82 pounds | ----- | 110 | 114 | 118 | 122 | 127 |
| Over 82 pounds and not over 83 pounds | ----- | 111 | 115 | 120 | 124 | 128 |
| Over 83 pounds and not over 84 pounds | ----- | 112 | 117 | 121 | 125 | 129 |
| Over 84 pounds and not over 85 pounds | ----- | 113 | 118 | 122 | 126 | 130 |
| Over 85 pounds and not over 86 pounds | ----- | 115 | 119 | 123 | 127 | 132 |
| Over 86 pounds and not over 87 pounds | ----- | 116 | 120 | 124 | 129 | 133 |
| Over 87 pounds and not over 88 pounds | ----- | 117 | 121 | 126 | 130 | 134 |
| Over 88 pounds and not over 89 pounds | ----- | 118 | 122 | 127 | 131 | 136 |
| Over 89 pounds and not over 90 pounds | ----- | 119 | 123 | 128 | 132 | 137 |
| Over 90 pounds and not over 91 pounds | ----- | 120 | 125 | 129 | 134 | 138 |
| Over 91 pounds and not over 92 pounds | ----- | 121 | 126 | 130 | 135 | 140 |
| Over 92 pounds and not over 93 pounds | ----- | 122 | 127 | 132 | 136 | 141 |
| Over 93 pounds and not over 94 pounds | ----- | 123 | 128 | 133 | 137 | 142 |
| Over 94 pounds and not over 95 pounds | ----- | 124 | 129 | 134 | 139 | 143 |
| Over 95 pounds and not over 96 pounds | ----- | 126 | 130 | 135 | 140 | 145 |
| Over 96 pounds and not over 97 pounds | ----- | 127 | 132 | 136 | 141 | 146 |
| Over 97 pounds and not over 98 pounds | ----- | 128 | 133 | 138 | 142 | 147 |
| Over 98 pounds and not over 99 pounds | ----- | 129 | 134 | 139 | 144 | 149 |
| Over 99 pounds and not over 100 pounds | ----- | 130 | 135 | 140 | 145 | 150 |
| Over 100 pounds, pound rates | ----- | 130 | 135 | 140 | 145 | 150 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | Merchandise rate table number | | | | |
|--|-------------------------------|-----|-----|-----|-----|
| | 26 | 27 | 28 | 29 | 30 |
| Not over 1 pound..... | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | 25 | 26 | 26 | 26 | 26 |
| Over 4 pounds and not over 5 pounds..... | 27 | 27 | 27 | 27 | 28 |
| Over 5 pounds and not over 6 pounds..... | 28 | 28 | 29 | 29 | 29 |
| Over 6 pounds and not over 7 pounds..... | 29 | 30 | 30 | 30 | 31 |
| Over 7 pounds and not over 8 pounds..... | 31 | 31 | 32 | 32 | 32 |
| Over 8 pounds and not over 9 pounds..... | 32 | 33 | 33 | 33 | 34 |
| Over 9 pounds and not over 10 pounds..... | 33 | 34 | 34 | 35 | 35 |
| Over 10 pounds and not over 11 pounds..... | 35 | 35 | 36 | 36 | 37 |
| Over 11 pounds and not over 12 pounds..... | 36 | 37 | 37 | 38 | 39 |
| Over 12 pounds and not over 13 pounds..... | 38 | 38 | 39 | 39 | 40 |
| Over 13 pounds and not over 14 pounds..... | 39 | 40 | 40 | 41 | 42 |
| Over 14 pounds and not over 15 pounds..... | 40 | 41 | 42 | 42 | 43 |
| Over 15 pounds and not over 16 pounds..... | 42 | 42 | 43 | 44 | 45 |
| Over 16 pounds and not over 17 pounds..... | 43 | 44 | 45 | 45 | 46 |
| Over 17 pounds and not over 18 pounds..... | 44 | 45 | 46 | 47 | 48 |
| Over 18 pounds and not over 19 pounds..... | 46 | 47 | 48 | 48 | 49 |
| Over 19 pounds and not over 20 pounds..... | 47 | 48 | 49 | 50 | 51 |
| Over 20 pounds and not over 21 pounds..... | 48 | 49 | 50 | 51 | 53 |
| Over 21 pounds and not over 22 pounds..... | 50 | 51 | 52 | 53 | 54 |
| Over 22 pounds and not over 23 pounds..... | 51 | 52 | 53 | 54 | 56 |
| Over 23 pounds and not over 24 pounds..... | 52 | 54 | 55 | 56 | 57 |
| Over 24 pounds and not over 25 pounds..... | 54 | 55 | 56 | 57 | 59 |
| Over 25 pounds and not over 26 pounds..... | 55 | 56 | 58 | 59 | 60 |
| Over 26 pounds and not over 27 pounds..... | 56 | 58 | 59 | 60 | 62 |
| Over 27 pounds and not over 28 pounds..... | 58 | 59 | 61 | 62 | 63 |
| Over 28 pounds and not over 29 pounds..... | 59 | 61 | 62 | 63 | 65 |
| Over 29 pounds and not over 30 pounds..... | 60 | 62 | 63 | 65 | 66 |
| Over 30 pounds and not over 31 pounds..... | 62 | 63 | 65 | 66 | 68 |
| Over 31 pounds and not over 32 pounds..... | 63 | 65 | 66 | 68 | 70 |
| Over 32 pounds and not over 33 pounds..... | 65 | 66 | 68 | 69 | 71 |
| Over 33 pounds and not over 34 pounds..... | 66 | 68 | 69 | 71 | 73 |
| Over 34 pounds and not over 35 pounds..... | 67 | 69 | 71 | 72 | 74 |
| Over 35 pounds and not over 36 pounds..... | 69 | 70 | 72 | 74 | 76 |
| Over 36 pounds and not over 37 pounds..... | 70 | 72 | 74 | 75 | 77 |
| Over 37 pounds and not over 38 pounds..... | 71 | 73 | 75 | 77 | 79 |
| Over 38 pounds and not over 39 pounds..... | 73 | 75 | 77 | 78 | 80 |
| Over 39 pounds and not over 40 pounds..... | 74 | 76 | 78 | 80 | 82 |
| Over 40 pounds and not over 41 pounds..... | 75 | 77 | 79 | 81 | 84 |
| Over 41 pounds and not over 42 pounds..... | 77 | 79 | 81 | 83 | 85 |
| Over 42 pounds and not over 43 pounds..... | 78 | 80 | 82 | 84 | 87 |
| Over 43 pounds and not over 44 pounds..... | 79 | 82 | 84 | 86 | 88 |
| Over 44 pounds and not over 45 pounds..... | 81 | 83 | 85 | 87 | 90 |
| Over 45 pounds and not over 46 pounds..... | 82 | 84 | 87 | 89 | 91 |
| Over 46 pounds and not over 47 pounds..... | 83 | 86 | 88 | 90 | 93 |
| Over 47 pounds and not over 48 pounds..... | 85 | 87 | 90 | 92 | 94 |
| Over 48 pounds and not over 49 pounds..... | 86 | 89 | 91 | 93 | 96 |
| Over 49 pounds and not over 50 pounds..... | 87 | 90 | 92 | 95 | 97 |
| Over 50 pounds and not over 51 pounds..... | 89 | 91 | 94 | 96 | 99 |
| Over 51 pounds and not over 52 pounds..... | 90 | 93 | 95 | 98 | 101 |
| Over 52 pounds and not over 53 pounds..... | 92 | 94 | 97 | 99 | 102 |
| Over 53 pounds and not over 54 pounds..... | 93 | 96 | 98 | 101 | 104 |
| Over 54 pounds and not over 55 pounds..... | 94 | 97 | 100 | 102 | 105 |
| Over 55 pounds and not over 56 pounds..... | 96 | 98 | 101 | 104 | 107 |
| Over 56 pounds and not over 57 pounds..... | 97 | 100 | 103 | 105 | 108 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 26 | 27 | 28 | 29 | 30 |
| Over 57 pounds and not over 58 pounds | ..... | 98 | 101 | 104 | 107 | 110 |
| Over 58 pounds and not over 59 pounds | ..... | 100 | 103 | 106 | 108 | 111 |
| Over 59 pounds and not over 60 pounds | ..... | 101 | 104 | 107 | 110 | 113 |
| Over 60 pounds and not over 61 pounds | ..... | 102 | 105 | 108 | 111 | 115 |
| Over 61 pounds and not over 62 pounds | ..... | 104 | 107 | 110 | 113 | 116 |
| Over 62 pounds and not over 63 pounds | ..... | 105 | 108 | 111 | 114 | 118 |
| Over 63 pounds and not over 64 pounds | ..... | 106 | 110 | 113 | 116 | 119 |
| Over 64 pounds and not over 65 pounds | ..... | 108 | 111 | 114 | 117 | 121 |
| Over 65 pounds and not over 66 pounds | ..... | 109 | 112 | 116 | 119 | 122 |
| Over 66 pounds and not over 67 pounds | ..... | 110 | 114 | 117 | 120 | 124 |
| Over 67 pounds and not over 68 pounds | ..... | 112 | 115 | 119 | 122 | 125 |
| Over 68 pounds and not over 69 pounds | ..... | 113 | 117 | 120 | 123 | 127 |
| Over 69 pounds and not over 70 pounds | ..... | 114 | 118 | 121 | 125 | 128 |
| Over 70 pounds and not over 71 pounds | ..... | 116 | 119 | 123 | 126 | 130 |
| Over 71 pounds and not over 72 pounds | ..... | 117 | 121 | 124 | 128 | 132 |
| Over 72 pounds and not over 73 pounds | ..... | 119 | 122 | 126 | 129 | 133 |
| Over 73 pounds and not over 74 pounds | ..... | 120 | 124 | 127 | 131 | 135 |
| Over 74 pounds and not over 75 pounds | ..... | 121 | 125 | 129 | 132 | 136 |
| Over 75 pounds and not over 76 pounds | ..... | 123 | 126 | 130 | 134 | 138 |
| Over 76 pounds and not over 77 pounds | ..... | 124 | 128 | 132 | 135 | 139 |
| Over 77 pounds and not over 78 pounds | ..... | 125 | 129 | 133 | 137 | 141 |
| Over 78 pounds and not over 79 pounds | ..... | 127 | 131 | 135 | 138 | 142 |
| Over 79 pounds and not over 80 pounds | ..... | 128 | 132 | 136 | 140 | 144 |
| Over 80 pounds and not over 81 pounds | ..... | 129 | 133 | 137 | 141 | 146 |
| Over 81 pounds and not over 82 pounds | ..... | 131 | 135 | 139 | 143 | 147 |
| Over 82 pounds and not over 83 pounds | ..... | 132 | 136 | 140 | 144 | 149 |
| Over 83 pounds and not over 84 pounds | ..... | 133 | 138 | 142 | 146 | 150 |
| Over 84 pounds and not over 85 pounds | ..... | 135 | 139 | 143 | 147 | 152 |
| Over 85 pounds and not over 86 pounds | ..... | 136 | 140 | 145 | 149 | 153 |
| Over 86 pounds and not over 87 pounds | ..... | 137 | 142 | 146 | 150 | 155 |
| Over 87 pounds and not over 88 pounds | ..... | 139 | 143 | 148 | 152 | 156 |
| Over 88 pounds and not over 89 pounds | ..... | 140 | 145 | 149 | 153 | 158 |
| Over 89 pounds and not over 90 pounds | ..... | 141 | 146 | 150 | 155 | 159 |
| Over 90 pounds and not over 91 pounds | ..... | 143 | 147 | 152 | 156 | 161 |
| Over 91 pounds and not over 92 pounds | ..... | 144 | 149 | 153 | 158 | 163 |
| Over 92 pounds and not over 93 pounds | ..... | 146 | 150 | 155 | 159 | 164 |
| Over 93 pounds and not over 94 pounds | ..... | 147 | 152 | 156 | 161 | 166 |
| Over 94 pounds and not over 95 pounds | ..... | 148 | 153 | 158 | 162 | 167 |
| Over 95 pounds and not over 96 pounds | ..... | 150 | 154 | 159 | 164 | 169 |
| Over 96 pounds and not over 97 pounds | ..... | 151 | 156 | 161 | 165 | 170 |
| Over 97 pounds and not over 98 pounds | ..... | 152 | 157 | 162 | 167 | 172 |
| Over 98 pounds and not over 99 pounds | ..... | 154 | 159 | 164 | 168 | 173 |
| Over 99 pounds and not over 100 pounds | ..... | 155 | 160 | 165 | 170 | 175 |
| Over 100 pounds, pound rates | ..... | 155 | 160 | 165 | 170 | 175 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---------------------------------------|-------|-------------------------------|-----|-----|-----|-----|
| | | 31 | 32 | 33 | 34 | 35 |
| Not over 1 pound | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds | ----- | 26 | 27 | 27 | 27 | 27 |
| Over 4 pounds and not over 5 pounds | ----- | 28 | 28 | 28 | 29 | 29 |
| Over 5 pounds and not over 6 pounds | ----- | 30 | 30 | 30 | 30 | 31 |
| Over 6 pounds and not over 7 pounds | ----- | 31 | 32 | 32 | 32 | 33 |
| Over 7 pounds and not over 8 pounds | ----- | 33 | 33 | 34 | 34 | 34 |
| Over 8 pounds and not over 9 pounds | ----- | 34 | 35 | 35 | 36 | 36 |
| Over 9 pounds and not over 10 pounds | ----- | 36 | 36 | 37 | 37 | 38 |
| Over 10 pounds and not over 11 pounds | ----- | 38 | 38 | 39 | 39 | 40 |
| Over 11 pounds and not over 12 pounds | ----- | 39 | 40 | 40 | 41 | 42 |
| Over 12 pounds and not over 13 pounds | ----- | 41 | 41 | 42 | 43 | 43 |
| Over 13 pounds and not over 14 pounds | ----- | 42 | 43 | 44 | 44 | 45 |
| Over 14 pounds and not over 15 pounds | ----- | 44 | 45 | 45 | 46 | 47 |
| Over 15 pounds and not over 16 pounds | ----- | 46 | 46 | 47 | 48 | 49 |
| Over 16 pounds and not over 17 pounds | ----- | 47 | 48 | 49 | 50 | 51 |
| Over 17 pounds and not over 18 pounds | ----- | 49 | 50 | 51 | 51 | 52 |
| Over 18 pounds and not over 19 pounds | ----- | 50 | 51 | 52 | 53 | 54 |
| Over 19 pounds and not over 20 pounds | ----- | 52 | 53 | 54 | 55 | 56 |
| Over 20 pounds and not over 21 pounds | ----- | 54 | 55 | 56 | 57 | 58 |
| Over 21 pounds and not over 22 pounds | ----- | 55 | 56 | 57 | 58 | 60 |
| Over 22 pounds and not over 23 pounds | ----- | 57 | 58 | 59 | 60 | 61 |
| Over 23 pounds and not over 24 pounds | ----- | 58 | 60 | 61 | 62 | 63 |
| Over 24 pounds and not over 25 pounds | ----- | 60 | 61 | 62 | 64 | 65 |
| Over 25 pounds and not over 26 pounds | ----- | 62 | 63 | 64 | 65 | 67 |
| Over 26 pounds and not over 27 pounds | ----- | 63 | 65 | 66 | 67 | 69 |
| Over 27 pounds and not over 28 pounds | ----- | 65 | 66 | 68 | 69 | 70 |
| Over 28 pounds and not over 29 pounds | ----- | 66 | 68 | 69 | 71 | 72 |
| Over 29 pounds and not over 30 pounds | ----- | 68 | 69 | 71 | 72 | 74 |
| Over 30 pounds and not over 31 pounds | ----- | 70 | 71 | 73 | 74 | 76 |
| Over 31 pounds and not over 32 pounds | ----- | 71 | 73 | 74 | 76 | 78 |
| Over 32 pounds and not over 33 pounds | ----- | 73 | 74 | 76 | 78 | 79 |
| Over 33 pounds and not over 34 pounds | ----- | 74 | 76 | 78 | 79 | 81 |
| Over 34 pounds and not over 35 pounds | ----- | 76 | 78 | 79 | 81 | 83 |
| Over 35 pounds and not over 36 pounds | ----- | 78 | 79 | 81 | 83 | 85 |
| Over 36 pounds and not over 37 pounds | ----- | 79 | 81 | 83 | 85 | 87 |
| Over 37 pounds and not over 38 pounds | ----- | 81 | 83 | 85 | 86 | 88 |
| Over 38 pounds and not over 39 pounds | ----- | 82 | 84 | 86 | 88 | 90 |
| Over 39 pounds and not over 40 pounds | ----- | 84 | 86 | 88 | 90 | 92 |
| Over 40 pounds and not over 41 pounds | ----- | 86 | 88 | 90 | 92 | 94 |
| Over 41 pounds and not over 42 pounds | ----- | 87 | 89 | 91 | 93 | 96 |
| Over 42 pounds and not over 43 pounds | ----- | 89 | 91 | 93 | 95 | 97 |
| Over 43 pounds and not over 44 pounds | ----- | 90 | 93 | 95 | 97 | 99 |
| Over 44 pounds and not over 45 pounds | ----- | 92 | 94 | 96 | 99 | 101 |
| Over 45 pounds and not over 46 pounds | ----- | 94 | 96 | 98 | 100 | 103 |
| Over 46 pounds and not over 47 pounds | ----- | 95 | 98 | 100 | 102 | 105 |
| Over 47 pounds and not over 48 pounds | ----- | 97 | 99 | 102 | 104 | 106 |
| Over 48 pounds and not over 49 pounds | ----- | 98 | 101 | 103 | 106 | 108 |
| Over 49 pounds and not over 50 pounds | ----- | 100 | 102 | 105 | 107 | 110 |
| Over 50 pounds and not over 51 pounds | ----- | 102 | 104 | 107 | 109 | 112 |
| Over 51 pounds and not over 52 pounds | ----- | 103 | 106 | 108 | 111 | 114 |
| Over 52 pounds and not over 53 pounds | ----- | 105 | 107 | 110 | 113 | 115 |
| Over 53 pounds and not over 54 pounds | ----- | 106 | 109 | 112 | 114 | 117 |
| Over 54 pounds and not over 55 pounds | ----- | 108 | 111 | 113 | 116 | 119 |
| Over 55 pounds and not over 56 pounds | ----- | 110 | 112 | 115 | 118 | 121 |
| Over 56 pounds and not over 57 pounds | ----- | 111 | 114 | 117 | 120 | 123 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|-----|-------------------------------|-----|-----|-----|----|
| | | 31 | 32 | 33 | 34 | 35 |
| Over 57 pounds and not over 58 pounds..... | 113 | 116 | 119 | 121 | 124 | |
| Over 58 pounds and not over 59 pounds..... | 114 | 117 | 120 | 123 | 126 | |
| Over 59 pounds and not over 60 pounds..... | 116 | 119 | 122 | 125 | 128 | |
| Over 60 pounds and not over 61 pounds..... | 118 | 121 | 124 | 127 | 130 | |
| Over 61 pounds and not over 62 pounds..... | 119 | 122 | 125 | 128 | 132 | |
| Over 62 pounds and not over 63 pounds..... | 121 | 124 | 127 | 130 | 133 | |
| Over 63 pounds and not over 64 pounds..... | 122 | 126 | 129 | 132 | 135 | |
| Over 64 pounds and not over 65 pounds..... | 124 | 127 | 130 | 131 | 137 | |
| Over 65 pounds and not over 66 pounds..... | 126 | 129 | 132 | 135 | 139 | |
| Over 66 pounds and not over 67 pounds..... | 127 | 131 | 134 | 137 | 141 | |
| Over 67 pounds and not over 68 pounds..... | 129 | 132 | 136 | 139 | 142 | |
| Over 68 pounds and not over 69 pounds..... | 130 | 134 | 137 | 141 | 144 | |
| Over 69 pounds and not over 70 pounds..... | 132 | 135 | 139 | 142 | 146 | |
| Over 70 pounds and not over 71 pounds..... | 134 | 137 | 141 | 144 | 148 | |
| Over 71 pounds and not over 72 pounds..... | 135 | 139 | 142 | 146 | 150 | |
| Over 72 pounds and not over 73 pounds..... | 137 | 140 | 144 | 148 | 151 | |
| Over 73 pounds and not over 74 pounds..... | 138 | 142 | 145 | 149 | 153 | |
| Over 74 pounds and not over 75 pounds..... | 140 | 144 | 147 | 151 | 155 | |
| Over 75 pounds and not over 76 pounds..... | 142 | 145 | 149 | 153 | 157 | |
| Over 76 pounds and not over 77 pounds..... | 143 | 147 | 151 | 155 | 159 | |
| Over 77 pounds and not over 78 pounds..... | 145 | 149 | 153 | 156 | 160 | |
| Over 78 pounds and not over 79 pounds..... | 146 | 150 | 154 | 158 | 162 | |
| Over 79 pounds and not over 80 pounds..... | 148 | 152 | 156 | 160 | 164 | |
| Over 80 pounds and not over 81 pounds..... | 150 | 154 | 158 | 162 | 166 | |
| Over 81 pounds and not over 82 pounds..... | 151 | 155 | 159 | 163 | 168 | |
| Over 82 pounds and not over 83 pounds..... | 153 | 157 | 161 | 165 | 169 | |
| Over 83 pounds and not over 84 pounds..... | 154 | 159 | 163 | 167 | 171 | |
| Over 84 pounds and not over 85 pounds..... | 156 | 160 | 164 | 169 | 173 | |
| Over 85 pounds and not over 86 pounds..... | 158 | 162 | 166 | 170 | 175 | |
| Over 86 pounds and not over 87 pounds..... | 159 | 164 | 168 | 172 | 177 | |
| Over 87 pounds and not over 88 pounds..... | 161 | 165 | 170 | 174 | 178 | |
| Over 88 pounds and not over 89 pounds..... | 162 | 167 | 171 | 176 | 180 | |
| Over 89 pounds and not over 90 pounds..... | 164 | 168 | 173 | 177 | 182 | |
| Over 90 pounds and not over 91 pounds..... | 166 | 170 | 175 | 179 | 184 | |
| Over 91 pounds and not over 92 pounds..... | 167 | 172 | 176 | 181 | 186 | |
| Over 92 pounds and not over 93 pounds..... | 169 | 173 | 178 | 183 | 187 | |
| Over 93 pounds and not over 94 pounds..... | 170 | 175 | 180 | 184 | 189 | |
| Over 94 pounds and not over 95 pounds..... | 172 | 177 | 181 | 186 | 191 | |
| Over 95 pounds and not over 96 pounds..... | 174 | 178 | 183 | 188 | 193 | |
| Over 96 pounds and not over 97 pounds..... | 175 | 180 | 185 | 190 | 195 | |
| Over 97 pounds and not over 98 pounds..... | 177 | 182 | 187 | 191 | 196 | |
| Over 98 pounds and not over 99 pounds..... | 178 | 183 | 188 | 193 | 198 | |
| Over 99 pounds and not over 100 pounds..... | 180 | 185 | 190 | 195 | 200 | |
| Over 100 pounds, pound rates..... | 180 | 185 | 190 | 195 | 200 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | Merchandise rate table number | | | | |
|--|-------------------------------|-----|-----|-----|-----|
| | 36 | 37 | 38 | 39 | 40 |
| Not over 1 pound..... | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | 26 | 26 | 26 | 26 | 26 |
| Over 3 pounds and not over 4 pounds..... | 27 | 28 | 28 | 28 | 28 |
| Over 4 pounds and not over 5 pounds..... | 29 | 29 | 30 | 30 | 30 |
| Over 5 pounds and not over 6 pounds..... | 31 | 31 | 32 | 32 | 32 |
| Over 6 pounds and not over 7 pounds..... | 33 | 33 | 34 | 34 | 34 |
| Over 7 pounds and not over 8 pounds..... | 35 | 35 | 36 | 36 | 36 |
| Over 8 pounds and not over 9 pounds..... | 37 | 37 | 38 | 38 | 38 |
| Over 9 pounds and not over 10 pounds..... | 38 | 39 | 39 | 40 | 40 |
| Over 10 pounds and not over 11 pounds..... | 40 | 41 | 41 | 42 | 43 |
| Over 11 pounds and not over 12 pounds..... | 42 | 43 | 43 | 44 | 45 |
| Over 12 pounds and not over 13 pounds..... | 41 | 45 | 45 | 46 | 47 |
| Over 13 pounds and not over 14 pounds..... | 46 | 47 | 47 | 48 | 49 |
| Over 14 pounds and not over 15 pounds..... | 48 | 48 | 49 | 50 | 51 |
| Over 15 pounds and not over 16 pounds..... | 50 | 50 | 51 | 52 | 53 |
| Over 16 pounds and not over 17 pounds..... | 51 | 52 | 53 | 54 | 55 |
| Over 17 pounds and not over 18 pounds..... | 53 | 54 | 55 | 56 | 57 |
| Over 18 pounds and not over 19 pounds..... | 55 | 56 | 57 | 58 | 59 |
| Over 19 pounds and not over 20 pounds..... | 57 | 58 | 59 | 60 | 61 |
| Over 20 pounds and not over 21 pounds..... | 59 | 60 | 61 | 62 | 63 |
| Over 21 pounds and not over 22 pounds..... | 61 | 62 | 63 | 64 | 65 |
| Over 22 pounds and not over 23 pounds..... | 63 | 64 | 65 | 66 | 67 |
| Over 23 pounds and not over 24 pounds..... | 64 | 66 | 67 | 68 | 69 |
| Over 24 pounds and not over 25 pounds..... | 66 | 67 | 69 | 70 | 71 |
| Over 25 pounds and not over 26 pounds..... | 68 | 69 | 71 | 72 | 73 |
| Over 26 pounds and not over 27 pounds..... | 70 | 71 | 73 | 74 | 75 |
| Over 27 pounds and not over 28 pounds..... | 72 | 73 | 75 | 76 | 77 |
| Over 28 pounds and not over 29 pounds..... | 74 | 75 | 77 | 78 | 79 |
| Over 29 pounds and not over 30 pounds..... | 75 | 77 | 78 | 80 | 81 |
| Over 30 pounds and not over 31 pounds..... | 77 | 79 | 80 | 82 | 84 |
| Over 31 pounds and not over 32 pounds..... | 79 | 81 | 82 | 84 | 86 |
| Over 32 pounds and not over 33 pounds..... | 81 | 83 | 84 | 86 | 88 |
| Over 33 pounds and not over 34 pounds..... | 83 | 85 | 86 | 88 | 90 |
| Over 34 pounds and not over 35 pounds..... | 85 | 86 | 88 | 90 | 92 |
| Over 35 pounds and not over 36 pounds..... | 87 | 88 | 90 | 92 | 94 |
| Over 36 pounds and not over 37 pounds..... | 88 | 90 | 92 | 94 | 96 |
| Over 37 pounds and not over 38 pounds..... | 90 | 92 | 94 | 96 | 98 |
| Over 38 pounds and not over 39 pounds..... | 92 | 94 | 96 | 98 | 100 |
| Over 39 pounds and not over 40 pounds..... | 94 | 96 | 98 | 100 | 102 |
| Over 40 pounds and not over 41 pounds..... | 96 | 98 | 100 | 102 | 104 |
| Over 41 pounds and not over 42 pounds..... | 98 | 100 | 102 | 104 | 106 |
| Over 42 pounds and not over 43 pounds..... | 100 | 102 | 104 | 106 | 108 |
| Over 43 pounds and not over 44 pounds..... | 101 | 104 | 106 | 108 | 110 |
| Over 44 pounds and not over 45 pounds..... | 103 | 105 | 108 | 110 | 112 |
| Over 45 pounds and not over 46 pounds..... | 105 | 107 | 110 | 112 | 114 |
| Over 46 pounds and not over 47 pounds..... | 107 | 109 | 112 | 114 | 116 |
| Over 47 pounds and not over 48 pounds..... | 109 | 111 | 114 | 116 | 118 |
| Over 48 pounds and not over 49 pounds..... | 111 | 113 | 116 | 118 | 120 |
| Over 49 pounds and not over 50 pounds..... | 112 | 115 | 117 | 120 | 122 |
| Over 50 pounds and not over 51 pounds..... | 114 | 117 | 119 | 122 | 125 |
| Over 51 pounds and not over 52 pounds..... | 116 | 119 | 121 | 124 | 127 |
| Over 52 pounds and not over 53 pounds..... | 118 | 121 | 123 | 126 | 129 |
| Over 53 pounds and not over 54 pounds..... | 120 | 123 | 125 | 128 | 131 |
| Over 54 pounds and not over 55 pounds..... | 122 | 124 | 127 | 130 | 133 |
| Over 55 pounds and not over 56 pounds..... | 124 | 126 | 129 | 132 | 135 |
| Over 56 pounds and not over 57 pounds..... | 125 | 128 | 131 | 134 | 137 |

Rule 10 governs the return of shipments to consignors. The Interstate Commerce Commission suggests that this rule be amended to read as follows, and we adopt their suggestion:

"Undelivered packages originally forwarded by express may by shipper's order be returned or forwarded by freight under the following conditions:

"1. When the shipper desires to instruct the agent at destination to return or reship undelivered packages, charges on the outward shipment (if not prepaid), together with the reshipping charge provided in the following section, must be forwarded to the agent at destination with instructions covering the return of reshipment by freight. Any instructions to reship to a consignee other than the shipper must be accompanied by the approval of the agent at shipping point, or in the absence of such approval by the original shipping receipt, which must also be endorsed by the shipper showing disposition.

"2. If it is desired to have the outgoing charges and reshipping charge billed back to the shipper through the agent at shipping point, the instructions to reship must be filed with the originating agent.

"3. The charge for return or forwarding by freight will be ten cents per 100 pounds, with a minimum charge of 25 cents in addition to all unpaid outgoing express charges. No charge shall be made for the return of the bill of lading.

"4. When the shipments consist of two or more packages or two or more shipments, the reshipping charge in section 3 shall be computed on the basis of the actual gross established minimum charge the same as if consisting of one package only."

Rule 11 concerns the assessment of valuation charges. The Interstate Commerce Commission suggests the following substitute for this rule:

"The rates governed by this classification are based upon a value of not exceeding \$50.00 on each shipment of 100 pounds or less and not exceeding 50 cents per pound actual weight on each shipment weighing more than 100 pounds, and the liability of the express company is limited to the value above stated unless a greater value is declared at time of shipment, and the declared value in excess of the value above specified is paid for or agreed to be paid for under the schedule of charges for excess value in the following paragraph of this rule; and in case of partial loss or damage the express company shall not be liable for more than such proportion of the same as \$50.00 for 100 pounds or less in weight, or 50 cents per pound if weight exceeds 100 pounds for the value declared bears to the actual value if greater. When the value declared by the shipper exceeds a value of \$50.00 on a shipment weighing 100 pounds or less, or 50 cents per pound weighing more than 100 pounds, the charge for the excess value will be at the rate of ten cents on each \$100.00 or fraction thereof (1/10 of 1 per cent)."

With this finding we agree, except that it is our opinion that in no case should the charge for valuation exceed the cost of transporting a like amount of currency. It seems inconsistent to charge more for transporting a commodity because of its value than we do for transporting the value itself in the form of currency. Therefore, we will add to the rule as suggested by the Interstate Commerce Commission the following:

“Provided that in no case shall the extra charge for declared value exceed the charge on the same amount of currency between the same points.”

This covers the rules upon which we believe specific findings should be made, and the amended rules as prescribed by this Commission in accordance with the findings herein will be established in the order.

We now reach the all-important question of a proper method for stating rates to be made applicable to the business of this company. We have found that its rates are unjust, unreasonable and discriminatory, and we likewise have found that there are defects in its rules and practices which require change. It will now be necessary affirmatively to prescribe the relief which should follow these findings.

The Interstate Commerce Commission prescribed a system of numbered blocks approximately fifty miles square, and prescribed a method of stating the rates as from block to block. All points within any block take the same rate from or to all points within any other block. This is a comparatively simple method, and provided the base rates in the various sections of the State are so constructed as to have due regard to the local conditions obtaining, such as density of traffic, character of country, etc., we believe that this method is fair both to the carrier and to the public. The Commission has decided to adopt a similar method to the one suggested by the Interstate Commerce Commission, which, by reason of the size of the blocks and the failure to give due weight within the states to the particular traffic conditions locally obtaining, we believe inapplicable to rates for shorter distances. In fixing these rates we have carefully estimated the effect upon the express company's revenue, and in considering this effect we have allowed for the future the same amount as payment to railroads as we found to exist in the year considered, and it has been stipulated by the express company that the evidence will not be considered by it stale because of the necessary time elapsing between the submission of such evidence and the decision of this case, due to the millions of transactions which we felt called upon carefully to consider in order that we should make no mistake. As already pointed out, the fact that the railroads secure their return on a percentage basis, and that the amount which they actually secure from the lower rates which we are ordering in

will probably be somewhat less than the amount here allowed for railroad service, does not affect the correctness of our conclusion that the actual amount paid under a voluntary arrangement may be considered as the proper amount to be paid; and the fact that the express company, because of this percentage arrangement, will secure a larger amount than that which is assigned to the express portion of the business likewise does not alter the correctness of the result. It merely directs the attention to the impropriety of the arrangement which now and heretofore has existed between railroads and express companies whereby either the railroads or the public or both have undoubtedly been the subject of unwarranted exactions. On this aspect of the case we will comment further later in this opinion.

The Commission has prepared a map of the State of California, which has been divided into sections approximately ten miles square. These sections are numbered on the same method adopted by the Interstate Commerce Commission, beginning at the square in the extreme northwest of the State, which bears the number 101, and the north tier of squares are numbered consecutively. The tier immediately south of this begins with the number 201, which is directly south of the square numbered 101. Thus the number of hundreds will give the tier and the units the row. In addition to this, the State has been divided into sections in accordance with the general traffic conditions existing in the different sections of the State.

Section "A" comprises roughly all of that territory lying north of Merced and Monterey, south of Santa Rosa and Marysville and west of Sacramento and Stockton.

Section "B" includes all of the territory south of Fernando, north of Santa Ana, and west of El Casco, in which the traffic conditions are much similar to those existing in Section "A," but which territory is disconnected from Section "A."

Section "C" will be that portion of the State lying north of Redding to the California-Oregon state line.

Section "D" comprises all that portion of the State east of Colfax to the California-Nevada state line and north to the California-Oregon state line, exclusive of stations on the Southern Pacific Company.

Section "E" comprises all the territory north of Mojave to California-Nevada state line.

Section "F" comprises that portion of the State lying east of Daggett to California-Nevada-Arizona state line.

Section "G" covers all the remaining portion of the State not included in the previous sections.

Rates will be stated as applying from square to square. All points within each square take the same rate to and from all points in any

other square. The specific rates have been carefully worked out, as has already been said, in accordance with traffic conditions and to bring about the necessary result as regards earnings. The particular rate between squares is determined by counting the squares by the most direct line and consulting the merchandise rate table which accompanies the map. And this scheme of rates and this method of determining the rates resultant therefrom are hereby found to be just and reasonable rates to be charged by Wells Fargo & Company for intrastate traffic, and all other rates in conflict herewith are found to be unjust, unreasonable and unlawful to be charged. The map referred to accompanies this opinion and is marked "Exhibit 1," and both this map and these merchandise rate tables are made a part of this opinion and the order following.

Before entering an order in this case we believe that it is quite proper that certain general observations should be made and a general analysis of this company be presented.

Wells Fargo & Company, under that corporate name, was organized under the laws of Colorado on January 26, 1872, being the successor of the Holladay Overland Mail and Express Company, which organized February 5, 1866. No data is available as to the amount, if any, of money which was originally put into this property, but it was admittedly small. As far back as this Commission has been able to secure records, it is found that this has been a paying concern. From 1890 to 1893, 8 per cent dividends were paid on the capital stock; in 1894, 7 per cent; from 1895 to 1901, 6 per cent; from 1902 to 1909, 9 per cent; from 1903 to 1906, 8 per cent; from July, 1906 to 1909, 10 per cent. In the annual report of this company to the Commission for the year ending June 30, 1910, the company makes the following statement, sworn to by its vice president and general auditor:

"By unanimous vote of the stockholders at a special meeting duly called for the purpose on December 23, 1909, the capital stock of the company was increased in pursuance of its charter powers from \$8,000,000 to \$24,000,000, the stockholders of record being given the privilege of subscribing for the increased capital stock at par. The regular semiannual dividend of 5 per cent was declared upon the old capitalization of \$8,000,000 from the earnings of 1909 and a special dividend of 300 per cent was declared by the directors on December 23, 1909, from the accumulated profits and investments of the company from the time of its organization to that date. In June, 1910, a dividend of 5 per cent was declared upon the capital stock issued and outstanding, \$23,967,400. The total amount declared in dividends regular and special during the year being \$25,598,370."

Notwithstanding the increase in capitalization from \$8,000,000.00 to \$24,000,000.00, in 1911 the regular dividend of 10 per cent was paid on the \$24,000,000.00 capitalization and the same was done in 1912 and

1913. Therefore it will appear that although the explanation made by the company that the 300 per cent dividend declared in one year was the result of surplus earnings of the company is correct, yet these surplus earnings were made in addition to an earning which netted the stockholders of this company never less than 6 per cent, and since 1906, 10 per cent on the capital stock.

Outstanding capital stock of this company is 237,674 shares of the par value of \$23,767,400.00, which shows that 2,326 shares authorized have not been issued, or are still in the treasury. According to the reports filed with this Commission by the express company, the entire property used in operation in all of the territory covered by it, both in state and interstate business, is \$5,732,092.59; while miscellaneous physical property not used in operation amounts to \$2,170,972.58, and its investments in securities are of a book value of \$19,806,925.19, making a total property valuation, according to its own statement, in excess of \$27,000,000.00, of which only about one fifth is used in the conduct of its express business. The book value of some of the securities set out in the reports to this Commission is very much less than the market value of such securities. The company's statement shows, for example, that it holds stock of Wells Fargo-Nevada National Bank of \$2,000,000.00, which is listed as of value of \$3,000,000.00, while the market value to-day is about \$3,500,000.00. From a general inspection of the stocks and securities held by this company, we are of the opinion that this illustration but represents the general condition, and that the market value of the securities owned by this company is much in excess of the amount reported, and that unquestionably the non-operative property of this company, including its investments in securities, is in excess of the par of its capital stock.

The history of this company, as well as that of other express companies doing business in the United States, shows that they have started from small beginnings and that very little, if any, money has ever been put into these properties except the money earned from rates. The tremendous sum of over \$27,000,000.00, shown to represent the value of the property of this company under its own statement, has been secured from the earnings of this company during the period of its existence, and in addition thereto the rates charged have produced a net return sufficiently high to enable this company to pay a liberal dividend upon its stock, and the amount of this stock has not been determined by the investment of the company, but by the amount it has been able to earn. Therefore, we face a condition where the rate-paying public has produced a property upon which it pays rates, namely, the \$5,732,092.59 used in operation, and in addition thereto values almost five times as great which have gone into other non-operative properties, which are now, of course, owned by the stock-

holders of this public utility, but safely removed from public regulation. When we meet such a condition the conclusion is inevitably forced upon us that either this agency is getting an amount tremendously more than that to which it is entitled from the rate-paying public, or it is paying to the railroads an amount which is not sufficient to compensate these railroads for the service performed by them for this express company. In any event, we are confronted with a condition that should be changed, for if this enormous amount of excess dividends is being taken from the railroads, then the other service performed by the railroads for the public must be burdened thereby, and the railroads will be required to charge upon their other traffic a sufficient amount in addition to a reasonable rate to cover the amount which through their contracts they have donated to the express company. On the other hand, if the railroads are being paid a proper amount, this amount is being taken directly instead of indirectly from the pockets of the ratepayers. We have assumed, because we can see no other way of remedying this condition, that the railroads are getting that to which they are entitled, and, as we have already said, we have every right to make this assumption. It may well be, however, that both the railroads and the public are getting the worst of it, but that somebody is getting the worst of it admits of no doubt.

We have quoted from the Interstate Commerce Commission's report covering the inter-corporate relations existing between this express company and other express companies and railroads. That at least a degree of common interest exists between Wells Fargo & Company and some of the railroads over which it operates is the inference which the Interstate Commerce Commission draws. We would go further and say that their report, and the reports on file with this Commission, show that there is in addition to this inter-corporate relationship a relationship existing between the officials and principal stockholders of some of these railroads, and this express company through stock ownership and control by the same officials and stockholders of the two companies alike, which at least makes it possible for the railroads to be exploited for the benefit of the express company. If a stockholder of the Southern Pacific, for instance, owning 25 per cent of the stock of the Southern Pacific, also owns 25 per cent of the stock of Wells Fargo & Company, it will readily be seen that such stockholder is not very much concerned about the express company getting the best of it; and, furthermore, if such stockholder of the railroad company can secure rates from the public for the service performed by the railroad company which are adequate to cover any losses occasioned by unprofitable contracts with the express company, such an arrangement would probably not be distasteful to such stockholders whereby double dividends are secured. We have no hesitancy in saying that the control of one public utility by

the stockholders of another with which such utility occupies contractual relations, or any close alliance existing by reason of any inter-corporate or stockholder relation, may result in abuses.

We are of the opinion from the evidence in the case that Wells Fargo & Company is now earning annually within the State of California upon intrastate business in the neighborhood of three quarters of a million dollars beyond that which it is necessary for it to earn to pay a liberal earning upon the value of its property devoted to such business. Let us assume for a moment that this unreasonable earning, instead of being secured from the public, is secured from the railroads. The evidence in this case shows that the express company pays the Southern Pacific Company 40 per cent of its gross revenue. To be sure, the express company urges that by reason of initial payments made at the time of entering into the contract with the Southern Pacific Company it is in fact paying about 55 per cent. This, of course, is not true, and in actual fact on its own theory, prorating the initial payment over the life of the contract, it is only now paying in the neighborhood of 40.8 per cent of its gross. The evidence also shows that about 66 per cent of the gross paid to railroads in this State is paid to the Southern Pacific on this 40 per cent contract. While it is probably true that the express company pays a larger proportion to the Southern Pacific Company in California than it does for the entire territory over which it operates, yet it is certainly true that the Southern Pacific Company receives the largest amount which is paid to any road by this company, and this at the rate of 40 per cent. So it appears that at least as far as the major portion of the business transacted for this company by the railroads is concerned, the railroads secure about 40 per cent of the gross. The gross annual revenue received by this company from California intrastate business is in round numbers \$4,500,000.00. The gross revenue annually earned by the entire system for all kinds of transportation business is approximately \$28,000,000.00, so that the total revenue represents approximately six and a half times the California intrastate revenue.

Assuming for the purpose of illustration (and we are making this analysis merely for such purpose) the same ratio of net earnings after paying the railroads the entire amount received by them is maintained for the entire business of this company as exists in California, and further assuming that the same excess over the reasonable return on the property of this company is maintained throughout the entire system as is found to exist in the State of California, we would find that this company is making a net annual revenue from operation of almost \$5,000,000.00 beyond that to which it is entitled. This \$5,000,000.00, in line with what we have already said, would represent, if our computations are correct, unreasonable exactions either from the public or

from the railroads. But we are assuming now that it is from the railroads, and if such is the case it is unquestionably true that the Southern Pacific Company, which receives the lowest percentage for performing the express service and does the greatest amount of business for the express company, is standing the greater proportion of it. We have already seen that Wells Fargo & Company pays the Southern Pacific Company 66 per cent of the total amount paid to railroads by that company for transacting California intrastate business. Assuming that one half of all the payments to railroads by this company in all its operations is paid to the Southern Pacific Company, then the Southern Pacific Company would be doing much more than one half the business by reason of its smaller percentage and would, therefore, stand more than one half of the losses. But to be safe, assuming that the Southern Pacific stands only one half of unreasonable exactions which are taken by this company under this illustration from the railroads, then we will see that this company is losing approximately \$2,500,000.00 annual net revenue by reason of having farmed out this portion of its transportation business to an express company. And if this illustration is in any way in accord with conditions as they exist, this road at least would be much better off if it took over this service and performed it itself. In any event, it might be well for the Southern Pacific Company, and the other railroads of the United States, to look into this express situation, and quite possibly they could find some relief from at least a part of the financial difficulties which they maintain beset them, and we would suggest that, by reason of the intercorporate and inter-stockholder relationship seen to exist, that the rate-paying public would view with more approval the applications of these roads continually being made to the Interstate Commerce Commission for increases in rates, if this rate-paying public could be sure that inter-manipulations of railroads and express companies was not making fortunes for stockholders of these railroads and express companies out of the express business at the expense of the railroad revenue.

We have chosen to assume, as indeed we have a right equitably and legally to assume, that the amount paid by this express company to the railroads with which it contracts is in all respects the proper amount to cover the entire expense of doing this business by the railroads, including interest upon the fair value of the property engaged therein, and, having made this assumption, we are forced to the conclusion that the amount earned by this company in excess of that which it could reasonably demand, is being taken *directly* from its patrons in the express business instead of *indirectly* through the patrons of the railroad companies. Such being the case, while it should not be the main design of this Commission to scale down earnings, yet we have no alternative in this case other than to scale down the earnings of this

company to a reasonable amount. And, in passing, we think it quite proper to say that something very apparently is wrong with a condition which will permit a public utility not only to create a property upon which the public pays rates, but to create millions besides, and in addition thereto pay dividends upon all of these accumulated millions. Plain common sense and business judgment, if nothing else, should induce the American people to give serious thought to the question whether it would not be wise to substitute some other agency for the agency now doing this business—some agency that will be willing to perform the service for a reasonable charge and which will expect to produce the property itself upon which it demands an earning and not have it produced for it from rates. It seems to us that much of the financial manipulation surrounding the express business has been made possible by the relationship existing between the express companies and the railroads, and likewise the inability of the public authorities heretofore adequately to regulate these express companies has largely resulted from their being substituted for the railroads, who perform the major portion of the service and with whom in reference to this service the public does not deal. The whole arrangement is cumbersome and makes a direct attack of the problem difficult. We disagree, to some extent, with the Interstate Commerce Commission in their conclusion that these express companies are necessary agencies. We do not see why the railroad companies, if this service is a public necessity as it seems to be, can not furnish and maintain this comparatively small amount of additional terminal equipment which is necessary to carry on the pick-up and delivery business of the express company, and if such were done the inter-corporate relationships would be destroyed and the railroads could be given directly a reasonable rate for the entire service. It is our opinion that the express company, as it now exists, is a parasite upon the railroads whose existence is not justified, and we are confirmed the more strongly in this view by reason of the facts heretofore referred to, that the American public has been forced to pay so dearly for this service.

We have already referred to the protest of the Atchison, Topeka and Santa Fe Railway Company filed in this case, and we have also called attention to the fact that the Southern Pacific Company only secures 40 per cent of the gross, while the Santa Fe secures 55 per cent. Under these circumstances, the failure of the Southern Pacific Company to file any protest seems to us to be somewhat significant. It would appear that either the Santa Fe with its 55 per cent contract has absolutely no ground for protest or that the Southern Pacific Company with its 40 per cent contract should have much more ground for complaint. The fact that neither the Atchison, Topeka and Santa Fe nor any of its officials nor principal stockholders are heavily, if at all, interested in

Wells Fargo & Company, and that the Southern Pacific officials and principal stockholders are, and that the Santa Fe with its 55 per cent contract urges it is not getting enough out of the express company, and the Southern Pacific Company with its 40 per cent contract makes no protest, leads us to await with interest the action of the Southern Pacific Company when its 40 per cent contract with Wells Fargo & Company expires on the first day of January, 1914. We do not wish to be understood as criticizing the present officials or stockholders of the Southern Pacific Company, because it is very evident that they did not occupy positions of control at the time of the making of the original Wells Fargo & Company contract, but a renewal of this contract would, of course, be a direct affirmance by them of their belief in its reasonableness, and in the light of the attitude of the comparatively disinterested Santa Fe as regards its 55 per cent contract, the renewal of its 40 per cent contract by the Southern Pacific Company, which can not be said to be disinterested in the affairs of Wells Fargo & Company, should require careful scrutiny by the governmental agency having authority.

We have sought herein to set out the facts which warrant our conclusion that the express company as an agent of the public under the present inter-corporate and individual relationships is not a proper agency to perform this service, and we submit with confidence that the financial manipulations and the tremendous fortunes accumulated under the present arrangement justify the conclusions herein set out to the effect that either the railroads or the public are getting very much the worst of it under the present arrangement.

Because of the fact that the order to be entered herein covers the entire State, and in it discriminations and practices which should be corrected are dealt with, it becomes unnecessary to enter any formal order in Cases Nos. 279, 307 and 312 independent of the order which is entered in Case No. 122 and made applicable to these cases.

ORDER.

Wells Fargo & Company having been cited by this Commission to appear, and all of its rates, classifications, rules and regulations within the State of California being made the subject of investigation in due and legal form, and complaints having been filed by the Merchants and Manufacturers' Association of Los Angeles, California, Central Creameries Company and County of Orange, and these cases having been combined with Case No. 122, brought upon the Commission's own initiative, and a hearing having been held and being fully apprised in the premises, the Commission hereby finds as a fact:

1. That the entire schedule of rates of Wells Fargo & Company in the State of California, and each individual rate therein, is unjust, unreasonable, discriminatory, inadequate or insufficient to the extent that such schedule of rates and each such individual rate differs from

the rates prescribed and established herein and found to be just and reasonable.

2. The Commission further finds as a fact that the classification heretofore adopted by Wells Fargo & Company is unjust, unreasonable and discriminatory.

3. The Commission further finds as a fact that the rules hereafter in this order and opinion specifically referred to are unjust and unreasonable to the extent that said rules differ from the rules herein established and declared to be just and reasonable rules to apply to the business of Wells Fargo & Company.

4. The Commission further finds as a fact that the following classifications are just and reasonable classifications:

All articles specified in the classification as taking merchandise rates should be grouped thereunder and alphabetically arranged.

All articles taking a higher or lower rate than "merchandise" should appear under the rate prescribed, the rate to be stated as a certain percentage of the base or merchandise rate. To illustrate: articles now shown as taking double, one and one half and one half merchandise rate shall be stated as 200 per cent, 150 per cent or 50 per cent of the merchandise rate, commodities so rated to be listed under their respective heading and in alphabetical order.

Merchandise shipments weighing 100 pounds, or less, will take the charge set out in Exhibit No. 2 (Merchandise Rate Tables Nos. 1 to 155, inclusive), hereafter referred to and established. Merchandise shipments weighing over 100 pounds will take the rate set out in the aforementioned tables and be charged pound rates (the weight multiplied by the rate per 100 pounds divided by 100).

The following commodities will take pound rates and be rated at the percentage shown of the merchandise rate, subject to a minimum charge of 25 cents for each shipment, providing actual weight under merchandise rate tables does not make a lower charge:

Seventy-five (75%) per cent of merchandise rate per 100 pounds:

Cheese, crackers, zweibach.

Fish and meat, smoked or dried.

Fruit and vegetables, dried.

Ice cream and all other articles of foodstuffs and beverages not specifically rated below.

Seventy (70%) per cent of merchandise rate per 100 pounds.

Laundry.

Sixty-five (65%) per cent of merchandise rate per 100 pounds.

Pigeons, squabs and poultry, dressed or undressed.

Dead wild game, ducks, geese, hare, cranes, heron.

Ice.

Sixty (60%) per cent of merchandise rate per 100 pounds.

Fresh bread and pies, fresh meat, clams, fish, mussels, shrimps, oysters, and lobsters. Live poultry, pigeons and squabs, in coops. Live turtles. Live hare and live rabbits.

Fifty-five (55%) per cent of merchandise rate per 100 pounds.

Butter, in packages.

Eggs, in cases.

Fifty (50%) per cent of merchandise rate per 100 pounds.

Fresh fruit and vegetables.

The following commodities will take pound rates and be rated at the percentage shown of the merchandise rate, subject to a minimum charge of 25 cents for each shipment:

Thirty (30%) per cent of the merchandise rate per 100 pounds.

Empty carriers, returned.

Twenty-five (25%) per cent of merchandise rate per 100 pounds.

Cream and milk.

In ascertaining the rate on commodities taking a multiple of merchandise rate, fractions will be disposed of in the following manner: 5 mills or less will be dropped; over 5 mills will be counted as 1 cent.

The rates and charges include free "pick-up" and "delivery" at points where such service is now maintained and to the extent and within the limits now maintained, except upon cream and milk and empty carriers returned.

Rates will be stated as applying from square No. — to square No. —. All points in each square will be common points, that is, the same rate applies to or from all points within one square to or from all points within any other square.

The Merchandise Rate Table applicable between squares will be determined from Exhibit No. 1, which is a map accompanying this order and which is made a part hereof. It is to be noted that Exhibit No. 1 is not only made up of squares which are numbered, but that certain parts thereof are designated as sections A, B, C, D, E, F, and G.

To determine the rate or charge applicable between squares, count each square once, beginning with the initial square, following the most direct line or route (rail, water, or both); the number of squares thus obtained indicates the merchandise rate table to be employed.

EXCEPTIONS.

First—Between squares in section C add 5.

Between squares in section D add 7.

Between squares in section E add 5.

Between squares in section F add 7.

Between squares in section G add 3.

Second—Between sections "A" and "B" and all other sections, add the number indicated in first above.

Third—Between section G and sections C, D, E, and F, add five when to or from sections C and E, and seven when to or from sections D and F.

Fourth—Between sections C and E, add 5.

Between sections D and F, add 7.

Between sections C and E and D and F, add 7.

5. The Commission further finds as a fact that all practices and modifications of the rules commented on and set out in the opinion and hereby referred to and the modifications required therein to be made and the rules resulting from such modifications are in each instance found to be the just and reasonable rules.

6. The Commission further finds as a fact that the rates resulting from the method prescribed herein are just and reasonable rates to be charged by Wells Fargo & Company for all of its commodities in accordance with the classification and method of stating rates heretofore set out in full.

And basing its order upon the foregoing findings of fact and the findings of fact in the opinion herein,

It is hereby ordered—

1. That all of the classifications found to be just and reasonable be and the same are hereby established to be observed by Wells Fargo & Company.

2. That all of the rules and regulations herein found to be just and reasonable are hereby established as rules to be observed by Wells Fargo & Company.

3. That all of the rates herein found to be just and reasonable are hereby established as rates to be charged by Wells Fargo & Company.

4. That all of the rates set out herein and all the rules, regulations and classifications to become effective not later than the first day of October, 1913, before which time Wells Fargo & Company is ordered and directed to print, file and distribute according to the rules of this Commission a tariff or tariffs embodying the rules, classifications and rates herein found to be just and reasonable and herein established.

5. No part of this order shall apply to interstate or foreign commerce, but it is limited strictly to intrastate commerce.

6. That Exhibits 1 and 2, to which reference has already been made and which are attached hereto and made a part hereof, are hereby adopted, to be followed and observed in the stating of rates and the compilation of tariffs of rates that are herein established.

7. The express company, defendant herein, may keep accurate and true accounts of its business, so as to determine the effect of the rates herein prescribed upon its revenue, and compute the amount which it would have received had the rates in effect before the effective date of this order been maintained in effect on each shipment of intrastate traffic, and may submit on or before the expiration of six months' period, or the less time elapsing before the submission of such statement, a statement in detail showing the difference between the amount

received under the rates herein established and the amount which would have been received under the rates in effect on the effective date of this order. The statement so submitted is for the purpose of apprising this Commission of the effect of this decision upon the revenue of this company, and if it appears that by reason of causes not now known or facts not in evidence in this case or any other reason that the changes in rates herein ordered have resulted in injustice either to this carrier or its patrons, the Commission will make such further order as the evidence so submitted shall justify.

WELLS FARGO & COMPANY EXPRESS.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 1 | 2 | 3 | 4 | 5 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 6 pounds and not over 7 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 7 pounds and not over 8 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 8 pounds and not over 9 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 9 pounds and not over 10 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 10 pounds and not over 11 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 11 pounds and not over 12 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 12 pounds and not over 13 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 13 pounds and not over 14 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 14 pounds and not over 15 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 15 pounds and not over 16 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 16 pounds and not over 17 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 17 pounds and not over 18 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 18 pounds and not over 19 pounds..... | | 25 | 25 | 25 | 25 | 26 |
| Over 19 pounds and not over 20 pounds..... | | 25 | 25 | 25 | 25 | 26 |
| Over 20 pounds and not over 21 pounds..... | | 25 | 25 | 25 | 25 | 26 |
| Over 21 pounds and not over 22 pounds..... | | 25 | 25 | 25 | 25 | 27 |
| Over 22 pounds and not over 23 pounds..... | | 25 | 25 | 25 | 26 | 27 |
| Over 23 pounds and not over 24 pounds..... | | 25 | 25 | 25 | 26 | 27 |
| Over 24 pounds and not over 25 pounds..... | | 25 | 25 | 25 | 26 | 27 |
| Over 25 pounds and not over 26 pounds..... | | 25 | 25 | 25 | 26 | 28 |
| Over 26 pounds and not over 27 pounds..... | | 25 | 25 | 25 | 27 | 28 |
| Over 27 pounds and not over 28 pounds..... | | 25 | 25 | 26 | 27 | 28 |
| Over 28 pounds and not over 29 pounds..... | | 25 | 25 | 26 | 27 | 29 |
| Over 29 pounds and not over 30 pounds..... | | 25 | 25 | 26 | 27 | 29 |
| Over 30 pounds and not over 31 pounds..... | | 25 | 25 | 26 | 28 | 29 |
| Over 31 pounds and not over 32 pounds..... | | 25 | 25 | 26 | 28 | 30 |
| Over 32 pounds and not over 33 pounds..... | | 25 | 25 | 27 | 28 | 30 |
| Over 33 pounds and not over 34 pounds..... | | 25 | 25 | 27 | 28 | 30 |
| Over 34 pounds and not over 35 pounds..... | | 25 | 25 | 27 | 29 | 30 |
| Over 35 pounds and not over 36 pounds..... | | 25 | 25 | 27 | 29 | 31 |
| Over 36 pounds and not over 37 pounds..... | | 25 | 26 | 27 | 29 | 31 |
| Over 37 pounds and not over 38 pounds..... | | 25 | 26 | 28 | 29 | 31 |
| Over 38 pounds and not over 39 pounds..... | | 25 | 26 | 28 | 30 | 32 |
| Over 39 pounds and not over 40 pounds..... | | 25 | 26 | 28 | 30 | 32 |
| Over 40 pounds and not over 41 pounds..... | | 25 | 26 | 28 | 30 | 32 |
| Over 41 pounds and not over 42 pounds..... | | 25 | 26 | 28 | 30 | 33 |
| Over 42 pounds and not over 43 pounds..... | | 25 | 26 | 29 | 31 | 33 |
| Over 43 pounds and not over 44 pounds..... | | 25 | 27 | 29 | 31 | 33 |

Wells Fargo & Company Express -Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|----|----|----|----|
| | | 1 | 2 | 3 | 4 | 5 |
| Over 44 pounds and not over 45 pounds | ----- | 25 | 27 | 29 | 31 | 33 |
| Over 45 pounds and not over 46 pounds | ----- | 25 | 27 | 29 | 31 | 34 |
| Over 46 pounds and not over 47 pounds | ----- | 25 | 27 | 29 | 32 | 34 |
| Over 47 pounds and not over 48 pounds | ----- | 25 | 27 | 30 | 32 | 34 |
| Over 48 pounds and not over 49 pounds | ----- | 25 | 27 | 30 | 32 | 35 |
| Over 49 pounds and not over 50 pounds | ----- | 25 | 27 | 30 | 32 | 35 |
| Over 50 pounds and not over 51 pounds | ----- | 25 | 28 | 30 | 33 | 35 |
| Over 51 pounds and not over 52 pounds | ----- | 25 | 28 | 30 | 33 | 36 |
| Over 52 pounds and not over 53 pounds | ----- | 25 | 28 | 31 | 33 | 36 |
| Over 53 pounds and not over 54 pounds | ----- | 25 | 28 | 31 | 33 | 36 |
| Over 54 pounds and not over 55 pounds | ----- | 25 | 28 | 31 | 34 | 36 |
| Over 55 pounds and not over 56 pounds | ----- | 26 | 28 | 31 | 34 | 37 |
| Over 56 pounds and not over 57 pounds | ----- | 26 | 29 | 31 | 34 | 37 |
| Over 57 pounds and not over 58 pounds | ----- | 26 | 29 | 32 | 34 | 37 |
| Over 58 pounds and not over 59 pounds | ----- | 26 | 29 | 32 | 35 | 38 |
| Over 59 pounds and not over 60 pounds | ----- | 26 | 29 | 32 | 35 | 38 |
| Over 60 pounds and not over 61 pounds | ----- | 26 | 29 | 32 | 35 | 38 |
| Over 61 pounds and not over 62 pounds | ----- | 26 | 29 | 32 | 35 | 39 |
| Over 62 pounds and not over 63 pounds | ----- | 26 | 29 | 33 | 36 | 39 |
| Over 63 pounds and not over 64 pounds | ----- | 26 | 30 | 33 | 36 | 39 |
| Over 64 pounds and not over 65 pounds | ----- | 26 | 30 | 33 | 36 | 39 |
| Over 65 pounds and not over 66 pounds | ----- | 27 | 30 | 33 | 36 | 40 |
| Over 66 pounds and not over 67 pounds | ----- | 27 | 30 | 33 | 37 | 40 |
| Over 67 pounds and not over 68 pounds | ----- | 27 | 30 | 34 | 37 | 40 |
| Over 68 pounds and not over 69 pounds | ----- | 27 | 30 | 34 | 37 | 41 |
| Over 69 pounds and not over 70 pounds | ----- | 27 | 30 | 34 | 37 | 41 |
| Over 70 pounds and not over 71 pounds | ----- | 27 | 31 | 34 | 38 | 41 |
| Over 71 pounds and not over 72 pounds | ----- | 27 | 31 | 34 | 38 | 42 |
| Over 72 pounds and not over 73 pounds | ----- | 27 | 31 | 35 | 38 | 42 |
| Over 73 pounds and not over 74 pounds | ----- | 27 | 31 | 35 | 38 | 42 |
| Over 74 pounds and not over 75 pounds | ----- | 27 | 31 | 35 | 39 | 42 |
| Over 75 pounds and not over 76 pounds | ----- | 28 | 31 | 35 | 39 | 43 |
| Over 76 pounds and not over 77 pounds | ----- | 28 | 32 | 36 | 39 | 43 |
| Over 77 pounds and not over 78 pounds | ----- | 28 | 32 | 36 | 39 | 43 |
| Over 78 pounds and not over 79 pounds | ----- | 28 | 32 | 36 | 40 | 44 |
| Over 79 pounds and not over 80 pounds | ----- | 28 | 32 | 36 | 40 | 44 |
| Over 80 pounds and not over 81 pounds | ----- | 28 | 32 | 36 | 40 | 44 |
| Over 81 pounds and not over 82 pounds | ----- | 28 | 32 | 36 | 40 | 45 |
| Over 82 pounds and not over 83 pounds | ----- | 28 | 32 | 37 | 41 | 45 |
| Over 83 pounds and not over 84 pounds | ----- | 28 | 33 | 37 | 41 | 45 |
| Over 84 pounds and not over 85 pounds | ----- | 28 | 33 | 37 | 41 | 45 |
| Over 85 pounds and not over 86 pounds | ----- | 29 | 33 | 37 | 41 | 46 |
| Over 86 pounds and not over 87 pounds | ----- | 29 | 33 | 37 | 42 | 46 |
| Over 87 pounds and not over 88 pounds | ----- | 29 | 33 | 38 | 42 | 46 |
| Over 88 pounds and not over 89 pounds | ----- | 29 | 33 | 38 | 42 | 47 |
| Over 89 pounds and not over 90 pounds | ----- | 29 | 33 | 38 | 42 | 47 |
| Over 90 pounds and not over 91 pounds | ----- | 29 | 34 | 38 | 43 | 47 |
| Over 91 pounds and not over 92 pounds | ----- | 29 | 34 | 38 | 43 | 48 |
| Over 92 pounds and not over 93 pounds | ----- | 29 | 34 | 39 | 43 | 48 |
| Over 93 pounds and not over 94 pounds | ----- | 29 | 34 | 39 | 43 | 48 |
| Over 94 pounds and not over 95 pounds | ----- | 29 | 34 | 39 | 44 | 48 |
| Over 95 pounds and not over 96 pounds | ----- | 30 | 34 | 39 | 44 | 49 |
| Over 96 pounds and not over 97 pounds | ----- | 30 | 35 | 39 | 44 | 49 |
| Over 97 pounds and not over 98 pounds | ----- | 30 | 35 | 40 | 44 | 49 |
| Over 98 pounds and not over 99 pounds | ----- | 30 | 35 | 40 | 45 | 50 |
| Over 99 pounds and not over 100 pounds | ----- | 30 | 35 | 40 | 45 | 50 |
| Over 100 pounds, pound rates | ----- | 30 | 35 | 40 | 45 | 50 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---------------------------------------|-------|-------------------------------|----|----|----|----|
| | | 6 | 7 | 8 | 9 | 10 |
| Not over 1 pound | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 6 pounds and not over 7 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 7 pounds and not over 8 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 8 pounds and not over 9 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 9 pounds and not over 10 pounds | ----- | 25 | 25 | 25 | 25 | 25 |
| Over 10 pounds and not over 11 pounds | ----- | 25 | 25 | 25 | 25 | 26 |
| Over 11 pounds and not over 12 pounds | ----- | 25 | 25 | 25 | 26 | 27 |
| Over 12 pounds and not over 13 pounds | ----- | 25 | 25 | 26 | 26 | 27 |
| Over 13 pounds and not over 14 pounds | ----- | 25 | 26 | 26 | 27 | 28 |
| Over 14 pounds and not over 15 pounds | ----- | 25 | 26 | 27 | 27 | 28 |
| Over 15 pounds and not over 16 pounds | ----- | 26 | 26 | 27 | 28 | 29 |
| Over 16 pounds and not over 17 pounds | ----- | 26 | 27 | 28 | 28 | 29 |
| Over 17 pounds and not over 18 pounds | ----- | 26 | 27 | 28 | 29 | 30 |
| Over 18 pounds and not over 19 pounds | ----- | 27 | 28 | 29 | 29 | 30 |
| Over 19 pounds and not over 20 pounds | ----- | 27 | 28 | 29 | 30 | 31 |
| Over 20 pounds and not over 21 pounds | ----- | 27 | 28 | 29 | 30 | 32 |
| Over 21 pounds and not over 22 pounds | ----- | 28 | 29 | 30 | 31 | 32 |
| Over 22 pounds and not over 23 pounds | ----- | 28 | 29 | 30 | 31 | 33 |
| Over 23 pounds and not over 24 pounds | ----- | 28 | 30 | 31 | 32 | 33 |
| Over 24 pounds and not over 25 pounds | ----- | 29 | 30 | 31 | 32 | 34 |
| Over 25 pounds and not over 26 pounds | ----- | 29 | 30 | 32 | 33 | 34 |
| Over 26 pounds and not over 27 pounds | ----- | 29 | 31 | 32 | 33 | 35 |
| Over 27 pounds and not over 28 pounds | ----- | 30 | 31 | 33 | 34 | 35 |
| Over 28 pounds and not over 29 pounds | ----- | 30 | 32 | 33 | 34 | 36 |
| Over 29 pounds and not over 30 pounds | ----- | 30 | 32 | 33 | 35 | 36 |
| Over 30 pounds and not over 31 pounds | ----- | 31 | 32 | 34 | 35 | 37 |
| Over 31 pounds and not over 32 pounds | ----- | 31 | 33 | 34 | 36 | 38 |
| Over 32 pounds and not over 33 pounds | ----- | 32 | 33 | 35 | 36 | 38 |
| Over 33 pounds and not over 34 pounds | ----- | 32 | 34 | 35 | 37 | 39 |
| Over 34 pounds and not over 35 pounds | ----- | 32 | 34 | 36 | 37 | 39 |
| Over 35 pounds and not over 36 pounds | ----- | 33 | 34 | 36 | 38 | 40 |
| Over 36 pounds and not over 37 pounds | ----- | 33 | 35 | 37 | 38 | 40 |
| Over 37 pounds and not over 38 pounds | ----- | 33 | 35 | 37 | 39 | 41 |
| Over 38 pounds and not over 39 pounds | ----- | 34 | 36 | 38 | 39 | 41 |
| Over 39 pounds and not over 40 pounds | ----- | 34 | 36 | 38 | 40 | 42 |
| Over 40 pounds and not over 41 pounds | ----- | 34 | 36 | 38 | 40 | 43 |
| Over 41 pounds and not over 42 pounds | ----- | 35 | 37 | 39 | 41 | 43 |
| Over 42 pounds and not over 43 pounds | ----- | 35 | 37 | 39 | 41 | 44 |
| Over 43 pounds and not over 44 pounds | ----- | 35 | 38 | 40 | 42 | 44 |
| Over 44 pounds and not over 45 pounds | ----- | 36 | 38 | 40 | 42 | 45 |
| Over 45 pounds and not over 46 pounds | ----- | 36 | 38 | 41 | 43 | 45 |
| Over 46 pounds and not over 47 pounds | ----- | 36 | 39 | 41 | 43 | 46 |
| Over 47 pounds and not over 48 pounds | ----- | 37 | 39 | 42 | 44 | 46 |
| Over 48 pounds and not over 49 pounds | ----- | 37 | 40 | 42 | 44 | 47 |
| Over 49 pounds and not over 50 pounds | ----- | 37 | 40 | 42 | 45 | 47 |
| Over 50 pounds and not over 51 pounds | ----- | 38 | 40 | 43 | 45 | 48 |
| Over 51 pounds and not over 52 pounds | ----- | 38 | 41 | 43 | 46 | 49 |
| Over 52 pounds and not over 53 pounds | ----- | 39 | 41 | 44 | 46 | 49 |
| Over 53 pounds and not over 54 pounds | ----- | 39 | 42 | 44 | 47 | 50 |
| Over 54 pounds and not over 55 pounds | ----- | 39 | 42 | 45 | 47 | 50 |
| Over 55 pounds and not over 56 pounds | ----- | 40 | 42 | 45 | 48 | 51 |
| Over 56 pounds and not over 57 pounds | ----- | 40 | 43 | 46 | 48 | 51 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|--|-------------------------------|----|----|----|----|
| | | 6 | 7 | 8 | 9 | 10 |
| Over 57 pounds and not over 58 pounds..... | | 40 | 43 | 46 | 49 | 52 |
| Over 58 pounds and not over 59 pounds..... | | 41 | 44 | 47 | 49 | 52 |
| Over 59 pounds and not over 60 pounds..... | | 41 | 44 | 47 | 50 | 53 |
| Over 60 pounds and not over 61 pounds..... | | 41 | 44 | 47 | 50 | 54 |
| Over 61 pounds and not over 62 pounds..... | | 42 | 45 | 48 | 51 | 54 |
| Over 62 pounds and not over 63 pounds..... | | 42 | 45 | 48 | 51 | 55 |
| Over 63 pounds and not over 64 pounds..... | | 42 | 46 | 49 | 52 | 55 |
| Over 64 pounds and not over 65 pounds..... | | 43 | 46 | 49 | 52 | 56 |
| Over 65 pounds and not over 66 pounds..... | | 43 | 46 | 50 | 53 | 56 |
| Over 66 pounds and not over 67 pounds..... | | 43 | 47 | 50 | 53 | 57 |
| Over 67 pounds and not over 68 pounds..... | | 44 | 47 | 51 | 54 | 57 |
| Over 68 pounds and not over 69 pounds..... | | 44 | 48 | 51 | 54 | 58 |
| Over 69 pounds and not over 70 pounds..... | | 44 | 48 | 51 | 55 | 58 |
| Over 70 pounds and not over 71 pounds..... | | 45 | 48 | 52 | 55 | 59 |
| Over 71 pounds and not over 72 pounds..... | | 45 | 49 | 52 | 56 | 60 |
| Over 72 pounds and not over 73 pounds..... | | 46 | 49 | 53 | 56 | 60 |
| Over 73 pounds and not over 74 pounds..... | | 46 | 50 | 53 | 57 | 61 |
| Over 74 pounds and not over 75 pounds..... | | 46 | 50 | 54 | 57 | 61 |
| Over 75 pounds and not over 76 pounds..... | | 47 | 50 | 54 | 58 | 62 |
| Over 76 pounds and not over 77 pounds..... | | 47 | 51 | 55 | 58 | 62 |
| Over 77 pounds and not over 78 pounds..... | | 47 | 51 | 55 | 59 | 63 |
| Over 78 pounds and not over 79 pounds..... | | 48 | 52 | 56 | 59 | 63 |
| Over 79 pounds and not over 80 pounds..... | | 48 | 52 | 56 | 60 | 64 |
| Over 80 pounds and not over 81 pounds..... | | 48 | 52 | 56 | 60 | 65 |
| Over 81 pounds and not over 82 pounds..... | | 49 | 53 | 57 | 61 | 65 |
| Over 82 pounds and not over 83 pounds..... | | 49 | 53 | 57 | 61 | 66 |
| Over 83 pounds and not over 84 pounds..... | | 49 | 54 | 58 | 62 | 66 |
| Over 84 pounds and not over 85 pounds..... | | 50 | 54 | 58 | 62 | 67 |
| Over 85 pounds and not over 86 pounds..... | | 50 | 54 | 59 | 63 | 67 |
| Over 86 pounds and not over 87 pounds..... | | 50 | 55 | 59 | 63 | 68 |
| Over 87 pounds and not over 88 pounds..... | | 51 | 55 | 60 | 64 | 68 |
| Over 88 pounds and not over 89 pounds..... | | 51 | 56 | 60 | 64 | 69 |
| Over 89 pounds and not over 90 pounds..... | | 51 | 56 | 60 | 65 | 69 |
| Over 90 pounds and not over 91 pounds..... | | 52 | 56 | 61 | 65 | 70 |
| Over 91 pounds and not over 92 pounds..... | | 52 | 57 | 61 | 66 | 71 |
| Over 92 pounds and not over 93 pounds..... | | 53 | 57 | 62 | 66 | 71 |
| Over 93 pounds and not over 94 pounds..... | | 53 | 58 | 62 | 67 | 72 |
| Over 94 pounds and not over 95 pounds..... | | 53 | 58 | 63 | 67 | 72 |
| Over 95 pounds and not over 96 pounds..... | | 54 | 58 | 63 | 68 | 73 |
| Over 96 pounds and not over 97 pounds..... | | 54 | 59 | 64 | 68 | 73 |
| Over 97 pounds and not over 98 pounds..... | | 54 | 59 | 64 | 69 | 74 |
| Over 98 pounds and not over 99 pounds..... | | 55 | 60 | 65 | 69 | 74 |
| Over 99 pounds and not over 100 pounds..... | | 55 | 60 | 65 | 70 | 75 |
| Over 100 pounds, pound rates..... | | 55 | 60 | 65 | 70 | 75 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 11 | 12 | 13 | 14 | 15 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 6 pounds and not over 7 pounds..... | | 25 | 25 | 25 | 25 | 26 |
| Over 7 pounds and not over 8 pounds..... | | 25 | 25 | 26 | 26 | 26 |
| Over 8 pounds and not over 9 pounds..... | | 25 | 26 | 26 | 27 | 27 |
| Over 9 pounds and not over 10 pounds..... | | 26 | 26 | 27 | 27 | 28 |
| Over 10 pounds and not over 11 pounds..... | | 27 | 27 | 28 | 28 | 29 |
| Over 11 pounds and not over 12 pounds..... | | 27 | 28 | 28 | 29 | 30 |
| Over 12 pounds and not over 13 pounds..... | | 28 | 28 | 29 | 30 | 30 |
| Over 13 pounds and not over 14 pounds..... | | 28 | 29 | 30 | 30 | 31 |
| Over 14 pounds and not over 15 pounds..... | | 29 | 30 | 30 | 31 | 32 |
| Over 15 pounds and not over 16 pounds..... | | 30 | 30 | 31 | 32 | 33 |
| Over 16 pounds and not over 17 pounds..... | | 30 | 31 | 32 | 33 | 34 |
| Over 17 pounds and not over 18 pounds..... | | 31 | 32 | 33 | 33 | 34 |
| Over 18 pounds and not over 19 pounds..... | | 31 | 32 | 33 | 34 | 35 |
| Over 19 pounds and not over 20 pounds..... | | 32 | 33 | 34 | 35 | 36 |
| Over 20 pounds and not over 21 pounds..... | | 33 | 34 | 35 | 36 | 37 |
| Over 21 pounds and not over 22 pounds..... | | 33 | 34 | 35 | 36 | 38 |
| Over 22 pounds and not over 23 pounds..... | | 34 | 35 | 36 | 37 | 38 |
| Over 23 pounds and not over 24 pounds..... | | 34 | 36 | 37 | 38 | 39 |
| Over 24 pounds and not over 25 pounds..... | | 35 | 36 | 37 | 39 | 40 |
| Over 25 pounds and not over 26 pounds..... | | 36 | 37 | 38 | 39 | 41 |
| Over 26 pounds and not over 27 pounds..... | | 36 | 38 | 39 | 40 | 42 |
| Over 27 pounds and not over 28 pounds..... | | 37 | 38 | 40 | 41 | 42 |
| Over 28 pounds and not over 29 pounds..... | | 37 | 39 | 40 | 42 | 43 |
| Over 29 pounds and not over 30 pounds..... | | 38 | 39 | 41 | 42 | 44 |
| Over 30 pounds and not over 31 pounds..... | | 39 | 40 | 42 | 43 | 45 |
| Over 31 pounds and not over 32 pounds..... | | 39 | 41 | 42 | 44 | 46 |
| Over 32 pounds and not over 33 pounds..... | | 40 | 41 | 43 | 45 | 46 |
| Over 33 pounds and not over 34 pounds..... | | 40 | 42 | 44 | 45 | 47 |
| Over 34 pounds and not over 35 pounds..... | | 41 | 43 | 44 | 46 | 48 |
| Over 35 pounds and not over 36 pounds..... | | 42 | 43 | 45 | 47 | 49 |
| Over 36 pounds and not over 37 pounds..... | | 42 | 44 | 46 | 48 | 50 |
| Over 37 pounds and not over 38 pounds..... | | 43 | 45 | 47 | 48 | 50 |
| Over 38 pounds and not over 39 pounds..... | | 43 | 45 | 47 | 49 | 51 |
| Over 39 pounds and not over 40 pounds..... | | 44 | 46 | 48 | 50 | 52 |
| Over 40 pounds and not over 41 pounds..... | | 45 | 47 | 49 | 51 | 53 |
| Over 41 pounds and not over 42 pounds..... | | 45 | 47 | 49 | 51 | 54 |
| Over 42 pounds and not over 43 pounds..... | | 46 | 48 | 50 | 52 | 54 |
| Over 43 pounds and not over 44 pounds..... | | 46 | 49 | 51 | 53 | 55 |
| Over 44 pounds and not over 45 pounds..... | | 47 | 49 | 51 | 54 | 56 |
| Over 45 pounds and not over 46 pounds..... | | 48 | 50 | 52 | 54 | 57 |
| Over 46 pounds and not over 47 pounds..... | | 48 | 51 | 53 | 55 | 58 |
| Over 47 pounds and not over 48 pounds..... | | 49 | 51 | 54 | 56 | 58 |
| Over 48 pounds and not over 49 pounds..... | | 49 | 52 | 54 | 57 | 59 |
| Over 49 pounds and not over 50 pounds..... | | 50 | 52 | 55 | 57 | 60 |
| Over 50 pounds and not over 51 pounds..... | | 51 | 53 | 56 | 58 | 61 |
| Over 51 pounds and not over 52 pounds..... | | 51 | 54 | 56 | 59 | 62 |
| Over 52 pounds and not over 53 pounds..... | | 52 | 54 | 57 | 60 | 62 |
| Over 53 pounds and not over 54 pounds..... | | 52 | 55 | 58 | 60 | 63 |
| Over 54 pounds and not over 55 pounds..... | | 53 | 56 | 58 | 61 | 64 |
| Over 55 pounds and not over 56 pounds..... | | 54 | 56 | 59 | 62 | 65 |
| Over 56 pounds and not over 57 pounds..... | | 54 | 57 | 60 | 63 | 66 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|----|----|----|-----|
| | | 11 | 12 | 13 | 14 | 15 |
| Over 57 pounds and not over 58 pounds | ----- | 55 | 58 | 61 | 63 | 65 |
| Over 58 pounds and not over 59 pounds | ----- | 55 | 58 | 61 | 64 | 66 |
| Over 59 pounds and not over 60 pounds | ----- | 56 | 59 | 62 | 65 | 67 |
| Over 60 pounds and not over 61 pounds | ----- | 57 | 60 | 63 | 66 | 68 |
| Over 61 pounds and not over 62 pounds | ----- | 57 | 60 | 63 | 66 | 68 |
| Over 62 pounds and not over 63 pounds | ----- | 58 | 61 | 64 | 67 | 69 |
| Over 63 pounds and not over 64 pounds | ----- | 58 | 62 | 65 | 68 | 70 |
| Over 64 pounds and not over 65 pounds | ----- | 59 | 62 | 65 | 69 | 71 |
| Over 65 pounds and not over 66 pounds | ----- | 60 | 63 | 66 | 69 | 72 |
| Over 66 pounds and not over 67 pounds | ----- | 60 | 64 | 67 | 70 | 72 |
| Over 67 pounds and not over 68 pounds | ----- | 61 | 64 | 68 | 71 | 73 |
| Over 68 pounds and not over 69 pounds | ----- | 61 | 65 | 68 | 72 | 74 |
| Over 69 pounds and not over 70 pounds | ----- | 62 | 65 | 69 | 72 | 74 |
| Over 70 pounds and not over 71 pounds | ----- | 63 | 66 | 70 | 73 | 75 |
| Over 71 pounds and not over 72 pounds | ----- | 63 | 67 | 70 | 74 | 76 |
| Over 72 pounds and not over 73 pounds | ----- | 64 | 67 | 71 | 75 | 77 |
| Over 73 pounds and not over 74 pounds | ----- | 64 | 68 | 72 | 75 | 78 |
| Over 74 pounds and not over 75 pounds | ----- | 65 | 69 | 72 | 76 | 79 |
| Over 75 pounds and not over 76 pounds | ----- | 66 | 69 | 73 | 77 | 80 |
| Over 76 pounds and not over 77 pounds | ----- | 66 | 70 | 74 | 78 | 81 |
| Over 77 pounds and not over 78 pounds | ----- | 67 | 71 | 75 | 78 | 82 |
| Over 78 pounds and not over 79 pounds | ----- | 67 | 71 | 75 | 79 | 83 |
| Over 79 pounds and not over 80 pounds | ----- | 68 | 72 | 76 | 80 | 84 |
| Over 80 pounds and not over 81 pounds | ----- | 69 | 73 | 77 | 81 | 85 |
| Over 81 pounds and not over 82 pounds | ----- | 69 | 73 | 77 | 81 | 86 |
| Over 82 pounds and not over 83 pounds | ----- | 70 | 74 | 78 | 82 | 86 |
| Over 83 pounds and not over 84 pounds | ----- | 70 | 75 | 79 | 83 | 87 |
| Over 84 pounds and not over 85 pounds | ----- | 71 | 75 | 79 | 84 | 88 |
| Over 85 pounds and not over 86 pounds | ----- | 72 | 76 | 80 | 84 | 89 |
| Over 86 pounds and not over 87 pounds | ----- | 72 | 77 | 81 | 85 | 90 |
| Over 87 pounds and not over 88 pounds | ----- | 73 | 77 | 82 | 86 | 90 |
| Over 88 pounds and not over 89 pounds | ----- | 73 | 78 | 82 | 87 | 91 |
| Over 89 pounds and not over 90 pounds | ----- | 74 | 78 | 83 | 87 | 92 |
| Over 90 pounds and not over 91 pounds | ----- | 75 | 79 | 84 | 88 | 93 |
| Over 91 pounds and not over 92 pounds | ----- | 75 | 80 | 84 | 89 | 94 |
| Over 92 pounds and not over 93 pounds | ----- | 76 | 80 | 85 | 90 | 94 |
| Over 93 pounds and not over 94 pounds | ----- | 76 | 81 | 86 | 90 | 95 |
| Over 94 pounds and not over 95 pounds | ----- | 77 | 82 | 86 | 91 | 96 |
| Over 95 pounds and not over 96 pounds | ----- | 78 | 82 | 87 | 92 | 97 |
| Over 96 pounds and not over 97 pounds | ----- | 78 | 83 | 88 | 93 | 98 |
| Over 97 pounds and not over 98 pounds | ----- | 79 | 84 | 89 | 93 | 98 |
| Over 98 pounds and not over 99 pounds | ----- | 79 | 84 | 89 | 94 | 99 |
| Over 99 pounds and not over 100 pounds | ----- | 80 | 85 | 90 | 95 | 100 |
| Over 100 pounds, pound rates | ----- | 80 | 85 | 90 | 95 | 100 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|----|----|----|----|
| | | 16 | 17 | 18 | 19 | 20 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 5 pounds and not over 6 pounds..... | | 25 | 25 | 26 | 26 | 26 |
| Over 6 pounds and not over 7 pounds..... | | 26 | 26 | 27 | 27 | 27 |
| Over 7 pounds and not over 8 pounds..... | | 27 | 27 | 28 | 28 | 28 |
| Over 8 pounds and not over 9 pounds..... | | 28 | 28 | 29 | 29 | 29 |
| Over 9 pounds and not over 10 pounds..... | | 28 | 29 | 29 | 30 | 30 |
| Over 10 pounds and not over 11 pounds..... | | 29 | 30 | 30 | 31 | 32 |
| Over 11 pounds and not over 12 pounds..... | | 30 | 31 | 31 | 32 | 33 |
| Over 12 pounds and not over 13 pounds..... | | 31 | 32 | 32 | 33 | 34 |
| Over 13 pounds and not over 14 pounds..... | | 32 | 33 | 33 | 34 | 35 |
| Over 14 pounds and not over 15 pounds..... | | 33 | 33 | 34 | 35 | 36 |
| Over 15 pounds and not over 16 pounds..... | | 34 | 34 | 35 | 36 | 37 |
| Over 16 pounds and not over 17 pounds..... | | 34 | 35 | 36 | 37 | 38 |
| Over 17 pounds and not over 18 pounds..... | | 35 | 36 | 37 | 38 | 39 |
| Over 18 pounds and not over 19 pounds..... | | 36 | 37 | 38 | 39 | 40 |
| Over 19 pounds and not over 20 pounds..... | | 37 | 38 | 39 | 40 | 41 |
| Over 20 pounds and not over 21 pounds..... | | 38 | 39 | 40 | 41 | 42 |
| Over 21 pounds and not over 22 pounds..... | | 39 | 40 | 41 | 42 | 43 |
| Over 22 pounds and not over 23 pounds..... | | 40 | 41 | 42 | 43 | 44 |
| Over 23 pounds and not over 24 pounds..... | | 40 | 42 | 43 | 44 | 45 |
| Over 24 pounds and not over 25 pounds..... | | 41 | 42 | 44 | 45 | 46 |
| Over 25 pounds and not over 26 pounds..... | | 42 | 43 | 45 | 46 | 47 |
| Over 26 pounds and not over 27 pounds..... | | 43 | 44 | 46 | 47 | 48 |
| Over 27 pounds and not over 28 pounds..... | | 44 | 45 | 47 | 48 | 49 |
| Over 28 pounds and not over 29 pounds..... | | 45 | 46 | 48 | 49 | 50 |
| Over 29 pounds and not over 30 pounds..... | | 45 | 47 | 48 | 50 | 51 |
| Over 30 pounds and not over 31 pounds..... | | 46 | 48 | 49 | 51 | 53 |
| Over 31 pounds and not over 32 pounds..... | | 47 | 49 | 50 | 52 | 54 |
| Over 32 pounds and not over 33 pounds..... | | 48 | 50 | 51 | 53 | 55 |
| Over 33 pounds and not over 34 pounds..... | | 49 | 51 | 52 | 54 | 56 |
| Over 34 pounds and not over 35 pounds..... | | 50 | 51 | 52 | 55 | 57 |
| Over 35 pounds and not over 36 pounds..... | | 51 | 52 | 54 | 56 | 58 |
| Over 36 pounds and not over 37 pounds..... | | 51 | 53 | 55 | 57 | 59 |
| Over 37 pounds and not over 38 pounds..... | | 52 | 54 | 56 | 58 | 60 |
| Over 38 pounds and not over 39 pounds..... | | 53 | 55 | 57 | 59 | 61 |
| Over 39 pounds and not over 40 pounds..... | | 54 | 56 | 58 | 60 | 62 |
| Over 40 pounds and not over 41 pounds..... | | 55 | 57 | 59 | 61 | 63 |
| Over 41 pounds and not over 42 pounds..... | | 56 | 58 | 60 | 62 | 64 |
| Over 42 pounds and not over 43 pounds..... | | 57 | 59 | 61 | 63 | 65 |
| Over 43 pounds and not over 44 pounds..... | | 57 | 60 | 62 | 64 | 66 |
| Over 44 pounds and not over 45 pounds..... | | 58 | 60 | 63 | 65 | 67 |
| Over 45 pounds and not over 46 pounds..... | | 59 | 61 | 64 | 66 | 68 |
| Over 46 pounds and not over 47 pounds..... | | 60 | 62 | 65 | 67 | 69 |
| Over 47 pounds and not over 48 pounds..... | | 61 | 63 | 66 | 68 | 70 |
| Over 48 pounds and not over 49 pounds..... | | 62 | 64 | 67 | 69 | 71 |
| Over 49 pounds and not over 50 pounds..... | | 62 | 65 | 67 | 70 | 72 |
| Over 50 pounds and not over 51 pounds..... | | 63 | 66 | 68 | 71 | 74 |
| Over 51 pounds and not over 52 pounds..... | | 64 | 67 | 69 | 72 | 75 |
| Over 52 pounds and not over 53 pounds..... | | 65 | 68 | 70 | 73 | 76 |
| Over 53 pounds and not over 54 pounds..... | | 66 | 69 | 71 | 74 | 77 |
| Over 54 pounds and not over 55 pounds..... | | 67 | 69 | 72 | 75 | 78 |
| Over 55 pounds and not over 56 pounds..... | | 68 | 70 | 73 | 76 | 79 |
| Over 56 pounds and not over 57 pounds..... | | 68 | 71 | 74 | 77 | 80 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 16 | 17 | 18 | 19 | 20 |
| Over 57 pounds and not over 58 pounds | ----- | 69 | 72 | 75 | 78 | 81 |
| Over 58 pounds and not over 59 pounds | ----- | 70 | 73 | 76 | 79 | 82 |
| Over 59 pounds and not over 60 pounds | ----- | 71 | 74 | 77 | 80 | 83 |
| Over 60 pounds and not over 61 pounds | ----- | 72 | 75 | 78 | 81 | 84 |
| Over 61 pounds and not over 62 pounds | ----- | 73 | 76 | 79 | 82 | 85 |
| Over 62 pounds and not over 63 pounds | ----- | 74 | 77 | 80 | 83 | 86 |
| Over 63 pounds and not over 64 pounds | ----- | 74 | 78 | 81 | 84 | 87 |
| Over 64 pounds and not over 65 pounds | ----- | 75 | 78 | 82 | 85 | 88 |
| Over 65 pounds and not over 66 pounds | ----- | 76 | 79 | 83 | 86 | 89 |
| Over 66 pounds and not over 67 pounds | ----- | 77 | 80 | 84 | 87 | 90 |
| Over 67 pounds and not over 68 pounds | ----- | 78 | 81 | 85 | 88 | 91 |
| Over 68 pounds and not over 69 pounds | ----- | 79 | 82 | 86 | 89 | 92 |
| Over 69 pounds and not over 70 pounds | ----- | 79 | 83 | 86 | 90 | 93 |
| Over 70 pounds and not over 71 pounds | ----- | 80 | 84 | 87 | 91 | 95 |
| Over 71 pounds and not over 72 pounds | ----- | 81 | 85 | 88 | 92 | 96 |
| Over 72 pounds and not over 73 pounds | ----- | 82 | 86 | 89 | 93 | 97 |
| Over 73 pounds and not over 74 pounds | ----- | 83 | 87 | 90 | 94 | 98 |
| Over 74 pounds and not over 75 pounds | ----- | 84 | 87 | 91 | 95 | 99 |
| Over 75 pounds and not over 76 pounds | ----- | 85 | 88 | 92 | 96 | 100 |
| Over 76 pounds and not over 77 pounds | ----- | 85 | 89 | 93 | 97 | 101 |
| Over 77 pounds and not over 78 pounds | ----- | 86 | 90 | 94 | 98 | 102 |
| Over 78 pounds and not over 79 pounds | ----- | 87 | 91 | 95 | 99 | 103 |
| Over 79 pounds and not over 80 pounds | ----- | 88 | 92 | 96 | 100 | 104 |
| Over 80 pounds and not over 81 pounds | ----- | 89 | 93 | 97 | 101 | 105 |
| Over 81 pounds and not over 82 pounds | ----- | 90 | 94 | 98 | 102 | 106 |
| Over 82 pounds and not over 83 pounds | ----- | 91 | 95 | 99 | 103 | 107 |
| Over 83 pounds and not over 84 pounds | ----- | 91 | 96 | 100 | 104 | 108 |
| Over 84 pounds and not over 85 pounds | ----- | 92 | 96 | 101 | 105 | 109 |
| Over 85 pounds and not over 86 pounds | ----- | 93 | 97 | 102 | 106 | 110 |
| Over 86 pounds and not over 87 pounds | ----- | 94 | 98 | 103 | 107 | 111 |
| Over 87 pounds and not over 88 pounds | ----- | 95 | 99 | 104 | 108 | 112 |
| Over 88 pounds and not over 89 pounds | ----- | 96 | 100 | 105 | 109 | 113 |
| Over 89 pounds and not over 90 pounds | ----- | 96 | 101 | 105 | 110 | 114 |
| Over 90 pounds and not over 91 pounds | ----- | 97 | 102 | 106 | 111 | 116 |
| Over 91 pounds and not over 92 pounds | ----- | 98 | 103 | 107 | 112 | 117 |
| Over 92 pounds and not over 93 pounds | ----- | 99 | 104 | 108 | 113 | 118 |
| Over 93 pounds and not over 94 pounds | ----- | 100 | 105 | 109 | 114 | 119 |
| Over 94 pounds and not over 95 pounds | ----- | 101 | 105 | 110 | 115 | 120 |
| Over 95 pounds and not over 96 pounds | ----- | 102 | 106 | 111 | 116 | 121 |
| Over 96 pounds and not over 97 pounds | ----- | 102 | 107 | 112 | 117 | 122 |
| Over 97 pounds and not over 98 pounds | ----- | 103 | 108 | 113 | 118 | 123 |
| Over 98 pounds and not over 99 pounds | ----- | 104 | 109 | 114 | 119 | 124 |
| Over 99 pounds and not over 100 pounds | ----- | 105 | 110 | 115 | 120 | 125 |
| Over 100 pounds, pound rates | ----- | 105 | 110 | 115 | 120 | 125 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | Merchandise rate table number | | | | |
|--|-------------------------------|----|----|----|----|
| | 21 | 22 | 23 | 24 | 25 |
| Not over 1 pound..... | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 4 pounds and not over 5 pounds..... | 25 | 26 | 26 | 26 | 26 |
| Over 5 pounds and not over 6 pounds..... | 27 | 27 | 27 | 27 | 28 |
| Over 6 pounds and not over 7 pounds..... | 28 | 28 | 28 | 29 | 29 |
| Over 7 pounds and not over 8 pounds..... | 29 | 29 | 30 | 30 | 30 |
| Over 8 pounds and not over 9 pounds..... | 30 | 30 | 31 | 31 | 32 |
| Over 9 pounds and not over 10 pounds..... | 31 | 31 | 32 | 32 | 33 |
| Over 10 pounds and not over 11 pounds..... | 32 | 33 | 33 | 34 | 34 |
| Over 11 pounds and not over 12 pounds..... | 33 | 34 | 34 | 35 | 36 |
| Over 12 pounds and not over 13 pounds..... | 34 | 35 | 36 | 36 | 37 |
| Over 13 pounds and not over 14 pounds..... | 35 | 36 | 37 | 37 | 38 |
| Over 14 pounds and not over 15 pounds..... | 36 | 37 | 38 | 39 | 39 |
| Over 15 pounds and not over 16 pounds..... | 38 | 38 | 39 | 40 | 41 |
| Over 16 pounds and not over 17 pounds..... | 39 | 40 | 40 | 41 | 42 |
| Over 17 pounds and not over 18 pounds..... | 40 | 41 | 42 | 42 | 43 |
| Over 18 pounds and not over 19 pounds..... | 41 | 42 | 43 | 44 | 45 |
| Over 19 pounds and not over 20 pounds..... | 42 | 43 | 44 | 45 | 46 |
| Over 20 pounds and not over 21 pounds..... | 43 | 44 | 45 | 46 | 47 |
| Over 21 pounds and not over 22 pounds..... | 44 | 45 | 46 | 47 | 49 |
| Over 22 pounds and not over 23 pounds..... | 45 | 46 | 48 | 49 | 50 |
| Over 23 pounds and not over 24 pounds..... | 46 | 48 | 49 | 50 | 51 |
| Over 24 pounds and not over 25 pounds..... | 47 | 49 | 50 | 51 | 52 |
| Over 25 pounds and not over 26 pounds..... | 49 | 50 | 51 | 52 | 54 |
| Over 26 pounds and not over 27 pounds..... | 50 | 51 | 52 | 54 | 55 |
| Over 27 pounds and not over 28 pounds..... | 51 | 52 | 54 | 55 | 56 |
| Over 28 pounds and not over 29 pounds..... | 52 | 53 | 55 | 56 | 58 |
| Over 29 pounds and not over 30 pounds..... | 53 | 54 | 56 | 57 | 59 |
| Over 30 pounds and not over 31 pounds..... | 54 | 56 | 57 | 59 | 60 |
| Over 31 pounds and not over 32 pounds..... | 55 | 57 | 58 | 60 | 62 |
| Over 32 pounds and not over 33 pounds..... | 56 | 58 | 60 | 61 | 63 |
| Over 33 pounds and not over 34 pounds..... | 57 | 59 | 61 | 62 | 64 |
| Over 34 pounds and not over 35 pounds..... | 58 | 60 | 62 | 64 | 65 |
| Over 35 pounds and not over 36 pounds..... | 60 | 61 | 63 | 65 | 67 |
| Over 36 pounds and not over 37 pounds..... | 61 | 63 | 64 | 66 | 68 |
| Over 37 pounds and not over 38 pounds..... | 62 | 64 | 66 | 67 | 69 |
| Over 38 pounds and not over 39 pounds..... | 63 | 65 | 67 | 69 | 71 |
| Over 39 pounds and not over 40 pounds..... | 64 | 66 | 68 | 70 | 72 |
| Over 40 pounds and not over 41 pounds..... | 65 | 67 | 69 | 71 | 73 |
| Over 41 pounds and not over 42 pounds..... | 66 | 68 | 70 | 72 | 75 |
| Over 42 pounds and not over 43 pounds..... | 67 | 69 | 72 | 74 | 76 |
| Over 43 pounds and not over 44 pounds..... | 68 | 71 | 73 | 75 | 77 |
| Over 44 pounds and not over 45 pounds..... | 69 | 72 | 74 | 76 | 78 |
| Over 45 pounds and not over 46 pounds..... | 71 | 73 | 75 | 76 | 80 |
| Over 46 pounds and not over 47 pounds..... | 72 | 74 | 76 | 79 | 81 |
| Over 47 pounds and not over 48 pounds..... | 73 | 75 | 78 | 80 | 82 |
| Over 48 pounds and not over 49 pounds..... | 74 | 76 | 79 | 81 | 84 |
| Over 49 pounds and not over 50 pounds..... | 75 | 77 | 80 | 82 | 85 |
| Over 50 pounds and not over 51 pounds..... | 76 | 79 | 81 | 84 | 86 |
| Over 51 pounds and not over 52 pounds..... | 77 | 80 | 82 | 85 | 88 |
| Over 52 pounds and not over 53 pounds..... | 78 | 81 | 84 | 86 | 89 |
| Over 53 pounds and not over 54 pounds..... | 79 | 82 | 85 | 87 | 90 |
| Over 54 pounds and not over 55 pounds..... | 80 | 83 | 86 | 89 | 91 |
| Over 55 pounds and not over 56 pounds..... | 82 | 84 | 87 | 90 | 93 |
| Over 56 pounds and not over 57 pounds..... | 83 | 86 | 88 | 91 | 94 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 21 | 22 | 23 | 24 | 25 |
| Over 57 pounds and not over 58 pounds | ----- | 84 | 87 | 90 | 92 | 95 |
| Over 58 pounds and not over 59 pounds | ----- | 85 | 88 | 91 | 94 | 97 |
| Over 59 pounds and not over 60 pounds | ----- | 86 | 89 | 92 | 95 | 98 |
| Over 60 pounds and not over 61 pounds | ----- | 87 | 90 | 93 | 96 | 99 |
| Over 61 pounds and not over 62 pounds | ----- | 88 | 91 | 94 | 97 | 101 |
| Over 62 pounds and not over 63 pounds | ----- | 89 | 92 | 96 | 99 | 102 |
| Over 63 pounds and not over 64 pounds | ----- | 90 | 94 | 97 | 100 | 103 |
| Over 64 pounds and not over 65 pounds | ----- | 91 | 95 | 98 | 101 | 104 |
| Over 65 pounds and not over 66 pounds | ----- | 93 | 96 | 99 | 102 | 106 |
| Over 66 pounds and not over 67 pounds | ----- | 94 | 97 | 100 | 104 | 107 |
| Over 67 pounds and not over 68 pounds | ----- | 96 | 98 | 102 | 105 | 108 |
| Over 68 pounds and not over 69 pounds | ----- | 96 | 99 | 103 | 106 | 110 |
| Over 69 pounds and not over 70 pounds | ----- | 97 | 100 | 104 | 107 | 111 |
| Over 70 pounds and not over 71 pounds | ----- | 98 | 102 | 105 | 109 | 112 |
| Over 71 pounds and not over 72 pounds | ----- | 99 | 103 | 106 | 110 | 114 |
| Over 72 pounds and not over 73 pounds | ----- | 100 | 104 | 108 | 111 | 115 |
| Over 73 pounds and not over 74 pounds | ----- | 101 | 105 | 109 | 112 | 116 |
| Over 74 pounds and not over 75 pounds | ----- | 102 | 106 | 110 | 114 | 117 |
| Over 75 pounds and not over 76 pounds | ----- | 104 | 107 | 111 | 115 | 119 |
| Over 76 pounds and not over 77 pounds | ----- | 105 | 109 | 112 | 116 | 120 |
| Over 77 pounds and not over 78 pounds | ----- | 106 | 110 | 114 | 117 | 121 |
| Over 78 pounds and not over 79 pounds | ----- | 107 | 111 | 115 | 119 | 123 |
| Over 79 pounds and not over 80 pounds | ----- | 108 | 112 | 116 | 120 | 124 |
| Over 80 pounds and not over 81 pounds | ----- | 109 | 113 | 117 | 121 | 125 |
| Over 81 pounds and not over 82 pounds | ----- | 110 | 114 | 118 | 122 | 127 |
| Over 82 pounds and not over 83 pounds | ----- | 111 | 115 | 120 | 124 | 128 |
| Over 83 pounds and not over 84 pounds | ----- | 112 | 117 | 121 | 125 | 129 |
| Over 84 pounds and not over 85 pounds | ----- | 113 | 118 | 122 | 126 | 130 |
| Over 85 pounds and not over 86 pounds | ----- | 115 | 119 | 123 | 127 | 132 |
| Over 86 pounds and not over 87 pounds | ----- | 116 | 120 | 124 | 129 | 133 |
| Over 87 pounds and not over 88 pounds | ----- | 117 | 121 | 126 | 130 | 134 |
| Over 88 pounds and not over 89 pounds | ----- | 118 | 122 | 127 | 131 | 136 |
| Over 89 pounds and not over 90 pounds | ----- | 119 | 123 | 128 | 132 | 137 |
| Over 90 pounds and not over 91 pounds | ----- | 120 | 125 | 129 | 134 | 138 |
| Over 91 pounds and not over 92 pounds | ----- | 121 | 126 | 130 | 135 | 140 |
| Over 92 pounds and not over 93 pounds | ----- | 122 | 127 | 132 | 136 | 141 |
| Over 93 pounds and not over 94 pounds | ----- | 123 | 128 | 133 | 137 | 142 |
| Over 94 pounds and not over 95 pounds | ----- | 124 | 129 | 134 | 139 | 143 |
| Over 95 pounds and not over 96 pounds | ----- | 126 | 130 | 135 | 140 | 145 |
| Over 96 pounds and not over 97 pounds | ----- | 127 | 132 | 136 | 141 | 146 |
| Over 97 pounds and not over 98 pounds | ----- | 128 | 133 | 138 | 142 | 147 |
| Over 98 pounds and not over 99 pounds | ----- | 129 | 134 | 139 | 144 | 149 |
| Over 99 pounds and not over 100 pounds | ----- | 130 | 135 | 140 | 145 | 150 |
| Over 100 pounds, pound rates | ----- | 130 | 135 | 140 | 145 | 150 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 26 | 27 | 28 | 29 | 30 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 25 | 26 | 26 | 26 | 26 |
| Over 4 pounds and not over 5 pounds..... | | 27 | 27 | 27 | 27 | 28 |
| Over 5 pounds and not over 6 pounds..... | | 28 | 28 | 29 | 29 | 29 |
| Over 6 pounds and not over 7 pounds..... | | 29 | 30 | 30 | 30 | 31 |
| Over 7 pounds and not over 8 pounds..... | | 31 | 31 | 32 | 32 | 32 |
| Over 8 pounds and not over 9 pounds..... | | 32 | 33 | 33 | 33 | 34 |
| Over 9 pounds and not over 10 pounds..... | | 33 | 34 | 34 | 35 | 35 |
| Over 10 pounds and not over 11 pounds..... | | 35 | 35 | 36 | 36 | 37 |
| Over 11 pounds and not over 12 pounds..... | | 36 | 37 | 37 | 38 | 39 |
| Over 12 pounds and not over 13 pounds..... | | 38 | 38 | 39 | 39 | 40 |
| Over 13 pounds and not over 14 pounds..... | | 39 | 40 | 40 | 41 | 42 |
| Over 14 pounds and not over 15 pounds..... | | 40 | 41 | 42 | 42 | 43 |
| Over 15 pounds and not over 16 pounds..... | | 42 | 42 | 43 | 44 | 45 |
| Over 16 pounds and not over 17 pounds..... | | 43 | 44 | 45 | 45 | 46 |
| Over 17 pounds and not over 18 pounds..... | | 44 | 45 | 46 | 47 | 48 |
| Over 18 pounds and not over 19 pounds..... | | 46 | 47 | 48 | 48 | 49 |
| Over 19 pounds and not over 20 pounds..... | | 47 | 48 | 49 | 50 | 51 |
| Over 20 pounds and not over 21 pounds..... | | 48 | 49 | 50 | 51 | 53 |
| Over 21 pounds and not over 22 pounds..... | | 50 | 51 | 52 | 53 | 54 |
| Over 22 pounds and not over 23 pounds..... | | 51 | 52 | 53 | 54 | 56 |
| Over 23 pounds and not over 24 pounds..... | | 52 | 54 | 55 | 56 | 57 |
| Over 24 pounds and not over 25 pounds..... | | 54 | 55 | 56 | 57 | 59 |
| Over 25 pounds and not over 26 pounds..... | | 55 | 56 | 58 | 59 | 60 |
| Over 26 pounds and not over 27 pounds..... | | 56 | 58 | 59 | 60 | 62 |
| Over 27 pounds and not over 28 pounds..... | | 58 | 59 | 61 | 62 | 63 |
| Over 28 pounds and not over 29 pounds..... | | 59 | 61 | 62 | 63 | 65 |
| Over 29 pounds and not over 30 pounds..... | | 60 | 62 | 63 | 65 | 66 |
| Over 30 pounds and not over 31 pounds..... | | 62 | 63 | 65 | 66 | 68 |
| Over 31 pounds and not over 32 pounds..... | | 63 | 65 | 66 | 68 | 70 |
| Over 32 pounds and not over 33 pounds..... | | 65 | 66 | 68 | 69 | 71 |
| Over 33 pounds and not over 34 pounds..... | | 66 | 68 | 69 | 71 | 73 |
| Over 34 pounds and not over 35 pounds..... | | 67 | 69 | 71 | 72 | 74 |
| Over 35 pounds and not over 36 pounds..... | | 69 | 70 | 72 | 74 | 76 |
| Over 36 pounds and not over 37 pounds..... | | 70 | 72 | 74 | 75 | 77 |
| Over 37 pounds and not over 38 pounds..... | | 71 | 73 | 75 | 77 | 79 |
| Over 38 pounds and not over 39 pounds..... | | 73 | 75 | 77 | 78 | 80 |
| Over 39 pounds and not over 40 pounds..... | | 74 | 76 | 78 | 80 | 82 |
| Over 40 pounds and not over 41 pounds..... | | 75 | 77 | 79 | 81 | 84 |
| Over 41 pounds and not over 42 pounds..... | | 77 | 79 | 81 | 83 | 85 |
| Over 42 pounds and not over 43 pounds..... | | 78 | 80 | 82 | 84 | 87 |
| Over 43 pounds and not over 44 pounds..... | | 79 | 82 | 84 | 86 | 88 |
| Over 44 pounds and not over 45 pounds..... | | 81 | 83 | 85 | 87 | 90 |
| Over 45 pounds and not over 46 pounds..... | | 82 | 84 | 87 | 89 | 91 |
| Over 46 pounds and not over 47 pounds..... | | 83 | 86 | 88 | 90 | 93 |
| Over 47 pounds and not over 48 pounds..... | | 85 | 87 | 90 | 92 | 94 |
| Over 48 pounds and not over 49 pounds..... | | 86 | 89 | 91 | 93 | 96 |
| Over 49 pounds and not over 50 pounds..... | | 87 | 90 | 92 | 95 | 97 |
| Over 50 pounds and not over 51 pounds..... | | 89 | 91 | 94 | 96 | 99 |
| Over 51 pounds and not over 52 pounds..... | | 90 | 93 | 95 | 98 | 101 |
| Over 52 pounds and not over 53 pounds..... | | 92 | 94 | 97 | 99 | 102 |
| Over 53 pounds and not over 54 pounds..... | | 93 | 96 | 98 | 101 | 104 |
| Over 54 pounds and not over 55 pounds..... | | 94 | 97 | 100 | 102 | 105 |
| Over 55 pounds and not over 56 pounds..... | | 96 | 98 | 101 | 104 | 107 |
| Over 56 pounds and not over 57 pounds..... | | 97 | 100 | 103 | 105 | 108 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | Merchandise rate table number | | | | |
|---|-------------------------------|-----|-----|-----|-----|
| | 26 | 27 | 28 | 29 | 30 |
| Over 57 pounds and not over 58 pounds..... | 98 | 101 | 104 | 107 | 110 |
| Over 58 pounds and not over 59 pounds..... | 100 | 103 | 106 | 108 | 111 |
| Over 59 pounds and not over 60 pounds..... | 101 | 104 | 107 | 110 | 113 |
| Over 60 pounds and not over 61 pounds..... | 102 | 105 | 108 | 111 | 115 |
| Over 61 pounds and not over 62 pounds..... | 104 | 107 | 110 | 113 | 116 |
| Over 62 pounds and not over 63 pounds..... | 105 | 108 | 111 | 114 | 118 |
| Over 63 pounds and not over 64 pounds..... | 106 | 110 | 113 | 116 | 119 |
| Over 64 pounds and not over 65 pounds..... | 108 | 111 | 114 | 117 | 121 |
| Over 65 pounds and not over 66 pounds..... | 109 | 112 | 116 | 119 | 122 |
| Over 66 pounds and not over 67 pounds..... | 110 | 114 | 117 | 120 | 124 |
| Over 67 pounds and not over 68 pounds..... | 112 | 115 | 119 | 122 | 125 |
| Over 68 pounds and not over 69 pounds..... | 113 | 117 | 120 | 123 | 127 |
| Over 69 pounds and not over 70 pounds..... | 114 | 118 | 121 | 125 | 128 |
| Over 70 pounds and not over 71 pounds..... | 116 | 119 | 123 | 126 | 130 |
| Over 71 pounds and not over 72 pounds..... | 117 | 121 | 124 | 128 | 132 |
| Over 72 pounds and not over 73 pounds..... | 119 | 122 | 126 | 129 | 133 |
| Over 73 pounds and not over 74 pounds..... | 120 | 124 | 127 | 131 | 135 |
| Over 74 pounds and not over 75 pounds..... | 121 | 125 | 129 | 132 | 136 |
| Over 75 pounds and not over 76 pounds..... | 123 | 126 | 130 | 134 | 138 |
| Over 76 pounds and not over 77 pounds..... | 124 | 128 | 132 | 135 | 139 |
| Over 77 pounds and not over 78 pounds..... | 125 | 129 | 133 | 137 | 141 |
| Over 78 pounds and not over 79 pounds..... | 127 | 131 | 135 | 138 | 142 |
| Over 79 pounds and not over 80 pounds..... | 128 | 132 | 136 | 140 | 144 |
| Over 80 pounds and not over 81 pounds..... | 129 | 133 | 137 | 141 | 146 |
| Over 81 pounds and not over 82 pounds..... | 131 | 135 | 139 | 143 | 147 |
| Over 82 pounds and not over 83 pounds..... | 132 | 136 | 140 | 144 | 149 |
| Over 83 pounds and not over 84 pounds..... | 133 | 138 | 142 | 146 | 150 |
| Over 84 pounds and not over 85 pounds..... | 135 | 139 | 143 | 147 | 152 |
| Over 85 pounds and not over 86 pounds..... | 136 | 140 | 145 | 149 | 153 |
| Over 86 pounds and not over 87 pounds..... | 137 | 142 | 146 | 150 | 155 |
| Over 87 pounds and not over 88 pounds..... | 139 | 143 | 148 | 152 | 156 |
| Over 88 pounds and not over 89 pounds..... | 140 | 145 | 149 | 153 | 158 |
| Over 89 pounds and not over 90 pounds..... | 141 | 146 | 150 | 155 | 159 |
| Over 90 pounds and not over 91 pounds..... | 143 | 147 | 152 | 156 | 161 |
| Over 91 pounds and not over 92 pounds..... | 144 | 149 | 153 | 158 | 163 |
| Over 92 pounds and not over 93 pounds..... | 146 | 150 | 155 | 159 | 164 |
| Over 93 pounds and not over 94 pounds..... | 147 | 152 | 156 | 161 | 166 |
| Over 94 pounds and not over 95 pounds..... | 148 | 153 | 158 | 162 | 167 |
| Over 95 pounds and not over 96 pounds..... | 150 | 154 | 159 | 164 | 169 |
| Over 96 pounds and not over 97 pounds..... | 151 | 156 | 161 | 165 | 170 |
| Over 97 pounds and not over 98 pounds..... | 152 | 157 | 162 | 167 | 172 |
| Over 98 pounds and not over 99 pounds..... | 154 | 159 | 164 | 168 | 173 |
| Over 99 pounds and not over 100 pounds..... | 155 | 160 | 165 | 170 | 175 |
| Over 100 pounds, pound rates..... | 155 | 160 | 165 | 170 | 175 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 31 | 32 | 33 | 34 | 35 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | | 25 | 25 | 25 | 25 | 25 |
| Over 3 pounds and not over 4 pounds..... | | 26 | 27 | 27 | 27 | 27 |
| Over 4 pounds and not over 5 pounds..... | | 28 | 28 | 28 | 29 | 29 |
| Over 5 pounds and not over 6 pounds..... | | 30 | 30 | 30 | 30 | 31 |
| Over 6 pounds and not over 7 pounds..... | | 31 | 32 | 32 | 32 | 33 |
| Over 7 pounds and not over 8 pounds..... | | 33 | 33 | 34 | 34 | 34 |
| Over 8 pounds and not over 9 pounds..... | | 34 | 35 | 35 | 36 | 36 |
| Over 9 pounds and not over 10 pounds..... | | 36 | 36 | 37 | 37 | 38 |
| Over 10 pounds and not over 11 pounds..... | | 38 | 38 | 39 | 39 | 40 |
| Over 11 pounds and not over 12 pounds..... | | 39 | 40 | 40 | 41 | 42 |
| Over 12 pounds and not over 13 pounds..... | | 41 | 41 | 42 | 43 | 43 |
| Over 13 pounds and not over 14 pounds..... | | 42 | 43 | 44 | 44 | 45 |
| Over 14 pounds and not over 15 pounds..... | | 44 | 45 | 45 | 46 | 47 |
| Over 15 pounds and not over 16 pounds..... | | 46 | 46 | 47 | 48 | 49 |
| Over 16 pounds and not over 17 pounds..... | | 47 | 48 | 49 | 50 | 51 |
| Over 17 pounds and not over 18 pounds..... | | 49 | 50 | 51 | 51 | 52 |
| Over 18 pounds and not over 19 pounds..... | | 50 | 51 | 52 | 53 | 54 |
| Over 19 pounds and not over 20 pounds..... | | 52 | 53 | 54 | 55 | 56 |
| Over 20 pounds and not over 21 pounds..... | | 54 | 55 | 56 | 57 | 58 |
| Over 21 pounds and not over 22 pounds..... | | 55 | 56 | 57 | 58 | 60 |
| Over 22 pounds and not over 23 pounds..... | | 57 | 58 | 59 | 60 | 61 |
| Over 23 pounds and not over 24 pounds..... | | 58 | 60 | 61 | 62 | 63 |
| Over 24 pounds and not over 25 pounds..... | | 60 | 61 | 62 | 64 | 65 |
| Over 25 pounds and not over 26 pounds..... | | 62 | 63 | 64 | 65 | 67 |
| Over 26 pounds and not over 27 pounds..... | | 63 | 65 | 66 | 67 | 69 |
| Over 27 pounds and not over 28 pounds..... | | 65 | 66 | 68 | 69 | 70 |
| Over 28 pounds and not over 29 pounds..... | | 66 | 68 | 69 | 71 | 72 |
| Over 29 pounds and not over 30 pounds..... | | 68 | 69 | 71 | 72 | 74 |
| Over 30 pounds and not over 31 pounds..... | | 70 | 71 | 73 | 74 | 76 |
| Over 31 pounds and not over 32 pounds..... | | 71 | 73 | 74 | 76 | 78 |
| Over 32 pounds and not over 33 pounds..... | | 73 | 74 | 76 | 78 | 79 |
| Over 33 pounds and not over 34 pounds..... | | 74 | 76 | 78 | 79 | 81 |
| Over 34 pounds and not over 35 pounds..... | | 76 | 78 | 79 | 81 | 83 |
| Over 35 pounds and not over 36 pounds..... | | 78 | 79 | 81 | 83 | 85 |
| Over 36 pounds and not over 37 pounds..... | | 79 | 81 | 83 | 85 | 87 |
| Over 37 pounds and not over 38 pounds..... | | 81 | 83 | 85 | 86 | 88 |
| Over 38 pounds and not over 39 pounds..... | | 82 | 84 | 86 | 88 | 90 |
| Over 39 pounds and not over 40 pounds..... | | 84 | 86 | 88 | 90 | 92 |
| Over 40 pounds and not over 41 pounds..... | | 86 | 88 | 90 | 92 | 94 |
| Over 41 pounds and not over 42 pounds..... | | 87 | 89 | 91 | 93 | 96 |
| Over 42 pounds and not over 43 pounds..... | | 89 | 91 | 93 | 95 | 97 |
| Over 43 pounds and not over 44 pounds..... | | 90 | 93 | 95 | 97 | 99 |
| Over 44 pounds and not over 45 pounds..... | | 92 | 94 | 96 | 99 | 101 |
| Over 45 pounds and not over 46 pounds..... | | 94 | 96 | 98 | 100 | 103 |
| Over 46 pounds and not over 47 pounds..... | | 95 | 98 | 100 | 102 | 105 |
| Over 47 pounds and not over 48 pounds..... | | 97 | 99 | 102 | 104 | 106 |
| Over 48 pounds and not over 49 pounds..... | | 98 | 101 | 103 | 106 | 108 |
| Over 49 pounds and not over 50 pounds..... | | 100 | 102 | 105 | 107 | 110 |
| Over 50 pounds and not over 51 pounds..... | | 102 | 104 | 107 | 109 | 112 |
| Over 51 pounds and not over 52 pounds..... | | 103 | 106 | 108 | 111 | 114 |
| Over 52 pounds and not over 53 pounds..... | | 105 | 107 | 110 | 113 | 115 |
| Over 53 pounds and not over 54 pounds..... | | 106 | 109 | 112 | 114 | 117 |
| Over 54 pounds and not over 55 pounds..... | | 108 | 111 | 113 | 116 | 119 |
| Over 55 pounds and not over 56 pounds..... | | 110 | 112 | 115 | 118 | 121 |
| Over 56 pounds and not over 57 pounds..... | | 111 | 114 | 117 | 120 | 123 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|-----|-------------------------------|-----|-----|-----|----|
| | | 31 | 32 | 33 | 34 | 35 |
| Over 57 pounds and not over 58 pounds..... | 113 | 116 | 119 | 121 | 124 | |
| Over 58 pounds and not over 59 pounds..... | 114 | 117 | 120 | 123 | 126 | |
| Over 59 pounds and not over 60 pounds..... | 116 | 119 | 122 | 125 | 128 | |
| Over 60 pounds and not over 61 pounds..... | 118 | 121 | 124 | 127 | 130 | |
| Over 61 pounds and not over 62 pounds..... | 119 | 122 | 125 | 128 | 132 | |
| Over 62 pounds and not over 63 pounds..... | 121 | 124 | 127 | 130 | 133 | |
| Over 63 pounds and not over 64 pounds..... | 122 | 126 | 129 | 132 | 135 | |
| Over 64 pounds and not over 65 pounds..... | 124 | 127 | 130 | 134 | 137 | |
| Over 65 pounds and not over 66 pounds..... | 126 | 129 | 132 | 135 | 139 | |
| Over 66 pounds and not over 67 pounds..... | 127 | 131 | 134 | 137 | 141 | |
| Over 67 pounds and not over 68 pounds..... | 129 | 132 | 136 | 139 | 142 | |
| Over 68 pounds and not over 69 pounds..... | 130 | 134 | 137 | 141 | 144 | |
| Over 69 pounds and not over 70 pounds..... | 132 | 135 | 139 | 142 | 146 | |
| Over 70 pounds and not over 71 pounds..... | 134 | 137 | 141 | 144 | 148 | |
| Over 71 pounds and not over 72 pounds..... | 135 | 139 | 142 | 146 | 150 | |
| Over 72 pounds and not over 73 pounds..... | 137 | 140 | 144 | 148 | 151 | |
| Over 73 pounds and not over 74 pounds..... | 138 | 142 | 145 | 149 | 153 | |
| Over 74 pounds and not over 75 pounds..... | 140 | 144 | 147 | 151 | 155 | |
| Over 75 pounds and not over 76 pounds..... | 142 | 145 | 149 | 153 | 157 | |
| Over 76 pounds and not over 77 pounds..... | 143 | 147 | 151 | 155 | 159 | |
| Over 77 pounds and not over 78 pounds..... | 145 | 149 | 153 | 156 | 160 | |
| Over 78 pounds and not over 79 pounds..... | 146 | 150 | 154 | 158 | 162 | |
| Over 79 pounds and not over 80 pounds..... | 148 | 152 | 156 | 160 | 164 | |
| Over 80 pounds and not over 81 pounds..... | 150 | 154 | 158 | 162 | 166 | |
| Over 81 pounds and not over 82 pounds..... | 151 | 155 | 159 | 163 | 168 | |
| Over 82 pounds and not over 83 pounds..... | 153 | 157 | 161 | 165 | 169 | |
| Over 83 pounds and not over 84 pounds..... | 154 | 159 | 163 | 167 | 171 | |
| Over 84 pounds and not over 85 pounds..... | 156 | 160 | 164 | 169 | 173 | |
| Over 85 pounds and not over 86 pounds..... | 158 | 162 | 166 | 170 | 175 | |
| Over 86 pounds and not over 87 pounds..... | 159 | 164 | 168 | 172 | 177 | |
| Over 87 pounds and not over 88 pounds..... | 161 | 165 | 170 | 174 | 178 | |
| Over 88 pounds and not over 89 pounds..... | 162 | 167 | 171 | 176 | 180 | |
| Over 89 pounds and not over 90 pounds..... | 164 | 168 | 173 | 177 | 182 | |
| Over 90 pounds and not over 91 pounds..... | 166 | 170 | 175 | 179 | 184 | |
| Over 91 pounds and not over 92 pounds..... | 167 | 172 | 176 | 181 | 186 | |
| Over 92 pounds and not over 93 pounds..... | 169 | 173 | 178 | 183 | 187 | |
| Over 93 pounds and not over 94 pounds..... | 170 | 175 | 180 | 184 | 189 | |
| Over 94 pounds and not over 95 pounds..... | 172 | 177 | 181 | 186 | 191 | |
| Over 95 pounds and not over 96 pounds..... | 174 | 178 | 183 | 188 | 193 | |
| Over 96 pounds and not over 97 pounds..... | 175 | 180 | 185 | 190 | 195 | |
| Over 97 pounds and not over 98 pounds..... | 177 | 182 | 187 | 191 | 196 | |
| Over 98 pounds and not over 99 pounds..... | 178 | 183 | 188 | 193 | 198 | |
| Over 99 pounds and not over 100 pounds..... | 180 | 185 | 190 | 195 | 200 | |
| Over 100 pounds, pound rates..... | 180 | 185 | 190 | 195 | 200 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | Merchandise rate table number | | | | |
|--|-------------------------------|-----|-----|-----|-----|
| | 36 | 37 | 38 | 39 | 40 |
| Not over 1 pound..... | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | 26 | 26 | 26 | 26 | 26 |
| Over 3 pounds and not over 4 pounds..... | 27 | 28 | 28 | 28 | 28 |
| Over 4 pounds and not over 5 pounds..... | 29 | 29 | 30 | 30 | 30 |
| Over 5 pounds and not over 6 pounds..... | 31 | 31 | 32 | 32 | 32 |
| Over 6 pounds and not over 7 pounds..... | 33 | 33 | 34 | 34 | 34 |
| Over 7 pounds and not over 8 pounds..... | 35 | 35 | 36 | 36 | 36 |
| Over 8 pounds and not over 9 pounds..... | 37 | 37 | 38 | 38 | 38 |
| Over 9 pounds and not over 10 pounds..... | 38 | 39 | 39 | 40 | 40 |
| Over 10 pounds and not over 11 pounds..... | 40 | 41 | 41 | 42 | 43 |
| Over 11 pounds and not over 12 pounds..... | 42 | 43 | 43 | 44 | 45 |
| Over 12 pounds and not over 13 pounds..... | 44 | 45 | 45 | 46 | 47 |
| Over 13 pounds and not over 14 pounds..... | 46 | 47 | 47 | 48 | 49 |
| Over 14 pounds and not over 15 pounds..... | 48 | 48 | 49 | 50 | 51 |
| Over 15 pounds and not over 16 pounds..... | 50 | 50 | 51 | 52 | 53 |
| Over 16 pounds and not over 17 pounds..... | 51 | 52 | 53 | 54 | 55 |
| Over 17 pounds and not over 18 pounds..... | 53 | 54 | 55 | 56 | 57 |
| Over 18 pounds and not over 19 pounds..... | 55 | 56 | 57 | 58 | 59 |
| Over 19 pounds and not over 20 pounds..... | 57 | 58 | 59 | 60 | 61 |
| Over 20 pounds and not over 21 pounds..... | 59 | 60 | 61 | 62 | 63 |
| Over 21 pounds and not over 22 pounds..... | 61 | 62 | 63 | 64 | 65 |
| Over 22 pounds and not over 23 pounds..... | 63 | 64 | 65 | 66 | 67 |
| Over 23 pounds and not over 24 pounds..... | 64 | 66 | 67 | 68 | 69 |
| Over 24 pounds and not over 25 pounds..... | 66 | 67 | 69 | 70 | 71 |
| Over 25 pounds and not over 26 pounds..... | 68 | 69 | 71 | 72 | 73 |
| Over 26 pounds and not over 27 pounds..... | 70 | 71 | 73 | 74 | 75 |
| Over 27 pounds and not over 28 pounds..... | 72 | 73 | 75 | 76 | 77 |
| Over 28 pounds and not over 29 pounds..... | 74 | 75 | 77 | 78 | 79 |
| Over 29 pounds and not over 30 pounds..... | 75 | 77 | 78 | 80 | 81 |
| Over 30 pounds and not over 31 pounds..... | 77 | 79 | 80 | 82 | 84 |
| Over 31 pounds and not over 32 pounds..... | 79 | 81 | 82 | 84 | 86 |
| Over 32 pounds and not over 33 pounds..... | 81 | 83 | 84 | 86 | 88 |
| Over 33 pounds and not over 34 pounds..... | 83 | 85 | 86 | 88 | 90 |
| Over 34 pounds and not over 35 pounds..... | 85 | 86 | 88 | 90 | 92 |
| Over 35 pounds and not over 36 pounds..... | 87 | 88 | 90 | 92 | 94 |
| Over 36 pounds and not over 37 pounds..... | 88 | 90 | 92 | 94 | 96 |
| Over 37 pounds and not over 38 pounds..... | 90 | 92 | 94 | 96 | 98 |
| Over 38 pounds and not over 39 pounds..... | 92 | 94 | 96 | 98 | 100 |
| Over 39 pounds and not over 40 pounds..... | 94 | 96 | 98 | 100 | 102 |
| Over 40 pounds and not over 41 pounds..... | 96 | 98 | 100 | 102 | 104 |
| Over 41 pounds and not over 42 pounds..... | 98 | 100 | 102 | 104 | 106 |
| Over 42 pounds and not over 43 pounds..... | 100 | 102 | 104 | 106 | 108 |
| Over 43 pounds and not over 44 pounds..... | 101 | 104 | 106 | 108 | 110 |
| Over 44 pounds and not over 45 pounds..... | 103 | 105 | 108 | 110 | 112 |
| Over 45 pounds and not over 46 pounds..... | 105 | 107 | 110 | 112 | 114 |
| Over 46 pounds and not over 47 pounds..... | 107 | 109 | 112 | 114 | 116 |
| Over 47 pounds and not over 48 pounds..... | 109 | 111 | 114 | 116 | 118 |
| Over 48 pounds and not over 49 pounds..... | 111 | 113 | 116 | 118 | 120 |
| Over 49 pounds and not over 50 pounds..... | 112 | 115 | 117 | 120 | 122 |
| Over 50 pounds and not over 51 pounds..... | 114 | 117 | 119 | 122 | 125 |
| Over 51 pounds and not over 52 pounds..... | 116 | 119 | 121 | 124 | 127 |
| Over 52 pounds and not over 53 pounds..... | 118 | 121 | 123 | 126 | 129 |
| Over 53 pounds and not over 54 pounds..... | 120 | 123 | 125 | 128 | 131 |
| Over 54 pounds and not over 55 pounds..... | 122 | 124 | 127 | 130 | 133 |
| Over 55 pounds and not over 56 pounds..... | 124 | 126 | 129 | 132 | 135 |
| Over 56 pounds and not over 57 pounds..... | 125 | 128 | 131 | 134 | 137 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|-----|-------------------------------|-----|-----|-----|-----|
| | | 36 | 37 | 38 | 39 | 40 |
| Over 57 pounds and not over 58 pounds..... | 127 | 130 | 133 | 136 | 139 | 141 |
| Over 58 pounds and not over 59 pounds..... | 129 | 132 | 135 | 138 | 141 | 144 |
| Over 59 pounds and not over 60 pounds..... | 131 | 134 | 137 | 140 | 143 | 146 |
| Over 60 pounds and not over 61 pounds..... | 133 | 136 | 139 | 142 | 145 | 148 |
| Over 61 pounds and not over 62 pounds..... | 135 | 138 | 141 | 144 | 147 | 150 |
| Over 62 pounds and not over 63 pounds..... | 137 | 140 | 143 | 146 | 149 | 152 |
| Over 63 pounds and not over 64 pounds..... | 138 | 142 | 145 | 148 | 151 | 154 |
| Over 64 pounds and not over 65 pounds..... | 140 | 143 | 147 | 150 | 153 | 156 |
| Over 65 pounds and not over 66 pounds..... | 142 | 145 | 149 | 152 | 155 | 158 |
| Over 66 pounds and not over 67 pounds..... | 144 | 147 | 151 | 154 | 157 | 160 |
| Over 67 pounds and not over 68 pounds..... | 146 | 149 | 153 | 156 | 159 | 162 |
| Over 68 pounds and not over 69 pounds..... | 148 | 151 | 155 | 158 | 161 | 164 |
| Over 69 pounds and not over 70 pounds..... | 149 | 153 | 156 | 160 | 163 | 166 |
| Over 70 pounds and not over 71 pounds..... | 151 | 155 | 158 | 162 | 165 | 168 |
| Over 71 pounds and not over 72 pounds..... | 153 | 157 | 160 | 164 | 167 | 170 |
| Over 72 pounds and not over 73 pounds..... | 155 | 159 | 162 | 166 | 169 | 172 |
| Over 73 pounds and not over 74 pounds..... | 157 | 161 | 164 | 168 | 171 | 174 |
| Over 74 pounds and not over 75 pounds..... | 159 | 162 | 166 | 170 | 173 | 176 |
| Over 75 pounds and not over 76 pounds..... | 161 | 164 | 168 | 172 | 175 | 178 |
| Over 76 pounds and not over 77 pounds..... | 162 | 166 | 170 | 174 | 177 | 180 |
| Over 77 pounds and not over 78 pounds..... | 164 | 168 | 172 | 176 | 179 | 182 |
| Over 78 pounds and not over 79 pounds..... | 166 | 170 | 174 | 178 | 181 | 184 |
| Over 79 pounds and not over 80 pounds..... | 168 | 172 | 176 | 180 | 183 | 186 |
| Over 80 pounds and not over 81 pounds..... | 170 | 174 | 178 | 182 | 185 | 188 |
| Over 81 pounds and not over 82 pounds..... | 172 | 176 | 180 | 184 | 187 | 190 |
| Over 82 pounds and not over 83 pounds..... | 174 | 178 | 182 | 186 | 189 | 192 |
| Over 83 pounds and not over 84 pounds..... | 175 | 180 | 184 | 188 | 191 | 194 |
| Over 84 pounds and not over 85 pounds..... | 177 | 181 | 186 | 190 | 193 | 196 |
| Over 85 pounds and not over 86 pounds..... | 179 | 183 | 188 | 192 | 195 | 198 |
| Over 86 pounds and not over 87 pounds..... | 181 | 185 | 190 | 194 | 197 | 200 |
| Over 87 pounds and not over 88 pounds..... | 183 | 187 | 192 | 196 | 199 | 202 |
| Over 88 pounds and not over 89 pounds..... | 185 | 189 | 194 | 198 | 201 | 204 |
| Over 89 pounds and not over 90 pounds..... | 186 | 191 | 195 | 200 | 203 | 206 |
| Over 90 pounds and not over 91 pounds..... | 188 | 193 | 197 | 202 | 205 | 208 |
| Over 91 pounds and not over 92 pounds..... | 190 | 195 | 199 | 204 | 207 | 210 |
| Over 92 pounds and not over 93 pounds..... | 192 | 197 | 201 | 206 | 209 | 212 |
| Over 93 pounds and not over 94 pounds..... | 194 | 199 | 203 | 208 | 211 | 214 |
| Over 94 pounds and not over 95 pounds..... | 196 | 200 | 205 | 210 | 213 | 216 |
| Over 95 pounds and not over 96 pounds..... | 198 | 202 | 207 | 212 | 215 | 218 |
| Over 96 pounds and not over 97 pounds..... | 199 | 204 | 209 | 214 | 217 | 220 |
| Over 97 pounds and not over 98 pounds..... | 201 | 206 | 211 | 216 | 219 | 222 |
| Over 98 pounds and not over 99 pounds..... | 203 | 208 | 213 | 218 | 221 | 224 |
| Over 99 pounds and not over 100 pounds..... | 205 | 210 | 215 | 220 | 223 | 226 |
| Over 100 pounds, pound rates..... | 205 | 210 | 215 | 220 | 223 | 226 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|----------------|-------------------------------|-----|-----|-----|-----|
| | | 41 | 42 | 43 | 44 | 45 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 2 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | 3 pounds..... | 26 | 26 | 27 | 27 | 27 |
| Over 3 pounds and not over 4 pounds..... | 4 pounds..... | 28 | 29 | 29 | 29 | 29 |
| Over 4 pounds and not over 5 pounds..... | 5 pounds..... | 30 | 31 | 31 | 31 | 31 |
| Over 5 pounds and not over 6 pounds..... | 6 pounds..... | 33 | 33 | 33 | 33 | 34 |
| Over 6 pounds and not over 7 pounds..... | 7 pounds..... | 35 | 35 | 35 | 36 | 36 |
| Over 7 pounds and not over 8 pounds..... | 8 pounds..... | 37 | 37 | 38 | 38 | 38 |
| Over 8 pounds and not over 9 pounds..... | 9 pounds..... | 39 | 39 | 40 | 40 | 41 |
| Over 9 pounds and not over 10 pounds..... | 10 pounds..... | 41 | 41 | 42 | 42 | 43 |
| Over 10 pounds and not over 11 pounds..... | 11 pounds..... | 43 | 44 | 44 | 45 | 45 |
| Over 11 pounds and not over 12 pounds..... | 12 pounds..... | 45 | 46 | 46 | 47 | 48 |
| Over 12 pounds and not over 13 pounds..... | 13 pounds..... | 47 | 48 | 49 | 49 | 50 |
| Over 13 pounds and not over 14 pounds..... | 14 pounds..... | 49 | 50 | 51 | 51 | 52 |
| Over 14 pounds and not over 15 pounds..... | 15 pounds..... | 51 | 52 | 53 | 54 | 54 |
| Over 15 pounds and not over 16 pounds..... | 16 pounds..... | 54 | 54 | 55 | 56 | 57 |
| Over 16 pounds and not over 17 pounds..... | 17 pounds..... | 56 | 57 | 57 | 58 | 59 |
| Over 17 pounds and not over 18 pounds..... | 18 pounds..... | 58 | 59 | 60 | 60 | 61 |
| Over 18 pounds and not over 19 pounds..... | 19 pounds..... | 60 | 61 | 62 | 63 | 64 |
| Over 19 pounds and not over 20 pounds..... | 20 pounds..... | 62 | 63 | 64 | 65 | 66 |
| Over 20 pounds and not over 21 pounds..... | 21 pounds..... | 64 | 65 | 66 | 67 | 68 |
| Over 21 pounds and not over 22 pounds..... | 22 pounds..... | 66 | 67 | 68 | 69 | 71 |
| Over 22 pounds and not over 23 pounds..... | 23 pounds..... | 68 | 69 | 71 | 72 | 73 |
| Over 23 pounds and not over 24 pounds..... | 24 pounds..... | 70 | 72 | 73 | 74 | 75 |
| Over 24 pounds and not over 25 pounds..... | 25 pounds..... | 72 | 74 | 75 | 76 | 77 |
| Over 25 pounds and not over 26 pounds..... | 26 pounds..... | 75 | 76 | 77 | 78 | 80 |
| Over 26 pounds and not over 27 pounds..... | 27 pounds..... | 77 | 78 | 79 | 81 | 82 |
| Over 27 pounds and not over 28 pounds..... | 28 pounds..... | 79 | 80 | 82 | 83 | 84 |
| Over 28 pounds and not over 29 pounds..... | 29 pounds..... | 81 | 82 | 84 | 85 | 87 |
| Over 29 pounds and not over 30 pounds..... | 30 pounds..... | 83 | 84 | 86 | 87 | 89 |
| Over 30 pounds and not over 31 pounds..... | 31 pounds..... | 85 | 87 | 88 | 90 | 91 |
| Over 31 pounds and not over 32 pounds..... | 32 pounds..... | 87 | 89 | 90 | 92 | 94 |
| Over 32 pounds and not over 33 pounds..... | 33 pounds..... | 89 | 91 | 93 | 94 | 96 |
| Over 33 pounds and not over 34 pounds..... | 34 pounds..... | 91 | 93 | 95 | 96 | 98 |
| Over 34 pounds and not over 35 pounds..... | 35 pounds..... | 93 | 95 | 97 | 99 | 100 |
| Over 35 pounds and not over 36 pounds..... | 36 pounds..... | 96 | 97 | 99 | 101 | 103 |
| Over 36 pounds and not over 37 pounds..... | 37 pounds..... | 98 | 100 | 101 | 103 | 105 |
| Over 37 pounds and not over 38 pounds..... | 38 pounds..... | 100 | 102 | 104 | 105 | 107 |
| Over 38 pounds and not over 39 pounds..... | 39 pounds..... | 102 | 104 | 106 | 108 | 110 |
| Over 39 pounds and not over 40 pounds..... | 40 pounds..... | 104 | 106 | 108 | 110 | 112 |
| Over 40 pounds and not over 41 pounds..... | 41 pounds..... | 106 | 108 | 110 | 112 | 114 |
| Over 41 pounds and not over 42 pounds..... | 42 pounds..... | 108 | 110 | 112 | 114 | 117 |
| Over 42 pounds and not over 43 pounds..... | 43 pounds..... | 110 | 112 | 115 | 117 | 119 |
| Over 43 pounds and not over 44 pounds..... | 44 pounds..... | 112 | 115 | 117 | 119 | 121 |
| Over 44 pounds and not over 45 pounds..... | 45 pounds..... | 114 | 117 | 119 | 121 | 123 |
| Over 45 pounds and not over 46 pounds..... | 46 pounds..... | 117 | 119 | 121 | 123 | 126 |
| Over 46 pounds and not over 47 pounds..... | 47 pounds..... | 119 | 121 | 123 | 126 | 128 |
| Over 47 pounds and not over 48 pounds..... | 48 pounds..... | 121 | 123 | 126 | 128 | 130 |
| Over 48 pounds and not over 49 pounds..... | 49 pounds..... | 123 | 125 | 128 | 130 | 133 |
| Over 49 pounds and not over 50 pounds..... | 50 pounds..... | 125 | 127 | 130 | 132 | 135 |
| Over 50 pounds and not over 51 pounds..... | 51 pounds..... | 127 | 130 | 132 | 135 | 137 |
| Over 51 pounds and not over 52 pounds..... | 52 pounds..... | 129 | 132 | 134 | 137 | 140 |
| Over 52 pounds and not over 53 pounds..... | 53 pounds..... | 131 | 134 | 137 | 139 | 142 |
| Over 53 pounds and not over 54 pounds..... | 54 pounds..... | 133 | 136 | 139 | 141 | 144 |
| Over 54 pounds and not over 55 pounds..... | 55 pounds..... | 135 | 138 | 141 | 144 | 146 |
| Over 55 pounds and not over 56 pounds..... | 56 pounds..... | 138 | 140 | 143 | 146 | 149 |
| Over 56 pounds and not over 57 pounds..... | 57 pounds..... | 140 | 143 | 145 | 148 | 151 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|--|-------------------------------|-----|-----|-----|-----|
| | | 41 | 42 | 43 | 44 | 45 |
| Over 57 pounds and not over 58 pounds..... | | 142 | 145 | 148 | 150 | 153 |
| Over 58 pounds and not over 59 pounds..... | | 144 | 147 | 150 | 153 | 156 |
| Over 59 pounds and not over 60 pounds..... | | 146 | 149 | 152 | 155 | 158 |
| Over 60 pounds and not over 61 pounds..... | | 148 | 151 | 154 | 157 | 160 |
| Over 61 pounds and not over 62 pounds..... | | 150 | 153 | 156 | 159 | 163 |
| Over 62 pounds and not over 63 pounds..... | | 152 | 155 | 159 | 162 | 165 |
| Over 63 pounds and not over 64 pounds..... | | 154 | 158 | 161 | 164 | 167 |
| Over 64 pounds and not over 65 pounds..... | | 156 | 160 | 163 | 166 | 169 |
| Over 65 pounds and not over 66 pounds..... | | 159 | 162 | 165 | 168 | 172 |
| Over 66 pounds and not over 67 pounds..... | | 161 | 164 | 167 | 171 | 174 |
| Over 67 pounds and not over 68 pounds..... | | 163 | 166 | 170 | 173 | 176 |
| Over 68 pounds and not over 69 pounds..... | | 165 | 168 | 172 | 175 | 179 |
| Over 69 pounds and not over 70 pounds..... | | 167 | 170 | 174 | 177 | 181 |
| Over 70 pounds and not over 71 pounds..... | | 169 | 173 | 176 | 180 | 183 |
| Over 71 pounds and not over 72 pounds..... | | 171 | 175 | 178 | 182 | 186 |
| Over 72 pounds and not over 73 pounds..... | | 173 | 177 | 181 | 184 | 188 |
| Over 73 pounds and not over 74 pounds..... | | 175 | 179 | 183 | 186 | 190 |
| Over 74 pounds and not over 75 pounds..... | | 177 | 181 | 185 | 189 | 192 |
| Over 75 pounds and not over 76 pounds..... | | 180 | 183 | 187 | 191 | 195 |
| Over 76 pounds and not over 77 pounds..... | | 182 | 186 | 189 | 193 | 197 |
| Over 77 pounds and not over 78 pounds..... | | 184 | 188 | 192 | 195 | 199 |
| Over 78 pounds and not over 79 pounds..... | | 186 | 190 | 194 | 198 | 202 |
| Over 79 pounds and not over 80 pounds..... | | 188 | 192 | 196 | 200 | 204 |
| Over 80 pounds and not over 81 pounds..... | | 190 | 194 | 198 | 202 | 206 |
| Over 81 pounds and not over 82 pounds..... | | 192 | 196 | 200 | 204 | 209 |
| Over 82 pounds and not over 83 pounds..... | | 194 | 198 | 203 | 207 | 211 |
| Over 83 pounds and not over 84 pounds..... | | 196 | 201 | 205 | 209 | 213 |
| Over 84 pounds and not over 85 pounds..... | | 198 | 203 | 207 | 211 | 215 |
| Over 85 pounds and not over 86 pounds..... | | 201 | 205 | 209 | 213 | 218 |
| Over 86 pounds and not over 87 pounds..... | | 203 | 207 | 211 | 216 | 220 |
| Over 87 pounds and not over 88 pounds..... | | 205 | 209 | 214 | 218 | 222 |
| Over 88 pounds and not over 89 pounds..... | | 207 | 211 | 216 | 220 | 225 |
| Over 89 pounds and not over 90 pounds..... | | 209 | 213 | 218 | 222 | 227 |
| Over 90 pounds and not over 91 pounds..... | | 211 | 216 | 220 | 225 | 229 |
| Over 91 pounds and not over 92 pounds..... | | 213 | 218 | 222 | 227 | 232 |
| Over 92 pounds and not over 93 pounds..... | | 215 | 220 | 225 | 229 | 234 |
| Over 93 pounds and not over 94 pounds..... | | 217 | 222 | 227 | 231 | 236 |
| Over 94 pounds and not over 95 pounds..... | | 219 | 224 | 229 | 234 | 238 |
| Over 95 pounds and not over 96 pounds..... | | 222 | 226 | 231 | 236 | 241 |
| Over 96 pounds and not over 97 pounds..... | | 224 | 229 | 233 | 238 | 243 |
| Over 97 pounds and not over 98 pounds..... | | 226 | 231 | 236 | 240 | 245 |
| Over 98 pounds and not over 99 pounds..... | | 228 | 233 | 238 | 243 | 248 |
| Over 99 pounds and not over 100 pounds..... | | 230 | 235 | 240 | 245 | 250 |
| Over 100 pounds, pound rates..... | | 230 | 235 | 240 | 245 | 250 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | Merchandise rate table number | | | | |
|--|-------------------------------|-----|-----|-----|-----|
| | 46 | 47 | 48 | 49 | 50 |
| Not over 1 pound..... | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 25 | 25 | 25 | 25 | 25 |
| Over 2 pounds and not over 3 pounds..... | 27 | 27 | 27 | 27 | 28 |
| Over 3 pounds and not over 4 pounds..... | 29 | 30 | 30 | 30 | 30 |
| Over 4 pounds and not over 5 pounds..... | 32 | 32 | 32 | 32 | 33 |
| Over 5 pounds and not over 6 pounds..... | 34 | 34 | 35 | 35 | 35 |
| Over 6 pounds and not over 7 pounds..... | 36 | 37 | 37 | 37 | 38 |
| Over 7 pounds and not over 8 pounds..... | 39 | 39 | 40 | 40 | 40 |
| Over 8 pounds and not over 9 pounds..... | 41 | 42 | 42 | 42 | 43 |
| Over 9 pounds and not over 10 pounds..... | 43 | 44 | 44 | 45 | 45 |
| Over 10 pounds and not over 11 pounds..... | 46 | 46 | 47 | 47 | 48 |
| Over 11 pounds and not over 12 pounds..... | 48 | 49 | 49 | 50 | 51 |
| Over 12 pounds and not over 13 pounds..... | 51 | 51 | 52 | 52 | 53 |
| Over 13 pounds and not over 14 pounds..... | 53 | 54 | 54 | 55 | 56 |
| Over 14 pounds and not over 15 pounds..... | 55 | 56 | 57 | 57 | 58 |
| Over 15 pounds and not over 16 pounds..... | 58 | 58 | 59 | 60 | 61 |
| Over 16 pounds and not over 17 pounds..... | 60 | 61 | 62 | 62 | 63 |
| Over 17 pounds and not over 18 pounds..... | 62 | 63 | 64 | 65 | 66 |
| Over 18 pounds and not over 19 pounds..... | 65 | 66 | 67 | 67 | 68 |
| Over 19 pounds and not over 20 pounds..... | 67 | 68 | 69 | 70 | 71 |
| Over 20 pounds and not over 21 pounds..... | 69 | 70 | 71 | 72 | 74 |
| Over 21 pounds and not over 22 pounds..... | 72 | 73 | 74 | 75 | 76 |
| Over 22 pounds and not over 23 pounds..... | 74 | 75 | 76 | 77 | 79 |
| Over 23 pounds and not over 24 pounds..... | 76 | 78 | 79 | 80 | 81 |
| Over 24 pounds and not over 25 pounds..... | 79 | 80 | 81 | 82 | 84 |
| Over 25 pounds and not over 26 pounds..... | 81 | 82 | 84 | 85 | 86 |
| Over 26 pounds and not over 27 pounds..... | 83 | 85 | 86 | 87 | 89 |
| Over 27 pounds and not over 28 pounds..... | 86 | 87 | 89 | 90 | 91 |
| Over 28 pounds and not over 29 pounds..... | 88 | 90 | 91 | 92 | 94 |
| Over 29 pounds and not over 30 pounds..... | 90 | 92 | 93 | 95 | 96 |
| Over 30 pounds and not over 31 pounds..... | 93 | 94 | 96 | 97 | 99 |
| Over 31 pounds and not over 32 pounds..... | 95 | 97 | 98 | 100 | 102 |
| Over 32 pounds and not over 33 pounds..... | 98 | 99 | 101 | 102 | 104 |
| Over 33 pounds and not over 34 pounds..... | 100 | 102 | 103 | 105 | 107 |
| Over 34 pounds and not over 35 pounds..... | 102 | 104 | 106 | 107 | 109 |
| Over 35 pounds and not over 36 pounds..... | 105 | 106 | 108 | 110 | 112 |
| Over 36 pounds and not over 37 pounds..... | 107 | 109 | 111 | 112 | 114 |
| Over 37 pounds and not over 38 pounds..... | 109 | 111 | 113 | 115 | 117 |
| Over 38 pounds and not over 39 pounds..... | 112 | 114 | 116 | 117 | 119 |
| Over 39 pounds and not over 40 pounds..... | 114 | 116 | 118 | 120 | 122 |
| Over 40 pounds and not over 41 pounds..... | 116 | 118 | 120 | 122 | 125 |
| Over 41 pounds and not over 42 pounds..... | 119 | 121 | 123 | 125 | 127 |
| Over 42 pounds and not over 43 pounds..... | 121 | 123 | 125 | 127 | 130 |
| Over 43 pounds and not over 44 pounds..... | 123 | 126 | 128 | 130 | 132 |
| Over 44 pounds and not over 45 pounds..... | 126 | 128 | 130 | 132 | 135 |
| Over 45 pounds and not over 46 pounds..... | 128 | 130 | 133 | 135 | 137 |
| Over 46 pounds and not over 47 pounds..... | 130 | 133 | 135 | 137 | 140 |
| Over 47 pounds and not over 48 pounds..... | 133 | 135 | 138 | 140 | 142 |
| Over 48 pounds and not over 49 pounds..... | 135 | 138 | 140 | 142 | 145 |
| Over 49 pounds and not over 50 pounds..... | 137 | 140 | 142 | 145 | 147 |
| Over 50 pounds and not over 51 pounds..... | 140 | 142 | 145 | 147 | 150 |
| Over 51 pounds and not over 52 pounds..... | 142 | 145 | 147 | 150 | 153 |
| Over 52 pounds and not over 53 pounds..... | 145 | 147 | 150 | 152 | 155 |
| Over 53 pounds and not over 54 pounds..... | 147 | 150 | 152 | 155 | 158 |
| Over 54 pounds and not over 55 pounds..... | 149 | 152 | 155 | 157 | 160 |
| Over 55 pounds and not over 56 pounds..... | 152 | 154 | 157 | 160 | 163 |
| Over 56 pounds and not over 57 pounds..... | 154 | 157 | 160 | 162 | 165 |

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Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 46 | 47 | 48 | 49 | 50 |
| Over 57 pounds and not over 58 pounds | ----- | 156 | 159 | 162 | 165 | 168 |
| Over 58 pounds and not over 59 pounds | ----- | 159 | 162 | 165 | 167 | 170 |
| Over 59 pounds and not over 60 pounds | ----- | 161 | 164 | 167 | 170 | 173 |
| Over 60 pounds and not over 61 pounds | ----- | 163 | 166 | 169 | 172 | 176 |
| Over 61 pounds and not over 62 pounds | ----- | 166 | 169 | 172 | 175 | 178 |
| Over 62 pounds and not over 63 pounds | ----- | 168 | 171 | 174 | 177 | 181 |
| Over 63 pounds and not over 64 pounds | ----- | 170 | 174 | 177 | 180 | 183 |
| Over 64 pounds and not over 65 pounds | ----- | 173 | 176 | 179 | 182 | 186 |
| Over 65 pounds and not over 66 pounds | ----- | 175 | 178 | 182 | 185 | 188 |
| Over 66 pounds and not over 67 pounds | ----- | 177 | 181 | 184 | 187 | 191 |
| Over 67 pounds and not over 68 pounds | ----- | 180 | 183 | 187 | 190 | 193 |
| Over 68 pounds and not over 69 pounds | ----- | 182 | 186 | 189 | 192 | 196 |
| Over 69 pounds and not over 70 pounds | ----- | 184 | 188 | 191 | 195 | 198 |
| Over 70 pounds and not over 71 pounds | ----- | 187 | 190 | 194 | 197 | 201 |
| Over 71 pounds and not over 72 pounds | ----- | 189 | 193 | 196 | 200 | 204 |
| Over 72 pounds and not over 73 pounds | ----- | 192 | 195 | 199 | 202 | 206 |
| Over 73 pounds and not over 74 pounds | ----- | 194 | 198 | 201 | 205 | 209 |
| Over 74 pounds and not over 75 pounds | ----- | 196 | 200 | 204 | 207 | 211 |
| Over 75 pounds and not over 76 pounds | ----- | 199 | 202 | 206 | 210 | 214 |
| Over 76 pounds and not over 77 pounds | ----- | 201 | 205 | 209 | 212 | 216 |
| Over 77 pounds and not over 78 pounds | ----- | 203 | 207 | 211 | 215 | 219 |
| Over 78 pounds and not over 79 pounds | ----- | 206 | 210 | 214 | 217 | 221 |
| Over 79 pounds and not over 80 pounds | ----- | 208 | 212 | 216 | 220 | 224 |
| Over 80 pounds and not over 81 pounds | ----- | 210 | 214 | 218 | 222 | 227 |
| Over 81 pounds and not over 82 pounds | ----- | 213 | 217 | 221 | 225 | 229 |
| Over 82 pounds and not over 83 pounds | ----- | 215 | 219 | 223 | 227 | 232 |
| Over 83 pounds and not over 84 pounds | ----- | 217 | 222 | 226 | 230 | 234 |
| Over 84 pounds and not over 85 pounds | ----- | 220 | 224 | 228 | 232 | 237 |
| Over 85 pounds and not over 86 pounds | ----- | 222 | 226 | 231 | 235 | 239 |
| Over 86 pounds and not over 87 pounds | ----- | 224 | 229 | 233 | 237 | 242 |
| Over 87 pounds and not over 88 pounds | ----- | 227 | 231 | 236 | 240 | 244 |
| Over 88 pounds and not over 89 pounds | ----- | 229 | 234 | 238 | 242 | 247 |
| Over 89 pounds and not over 90 pounds | ----- | 231 | 236 | 240 | 245 | 249 |
| Over 90 pounds and not over 91 pounds | ----- | 234 | 238 | 243 | 247 | 252 |
| Over 91 pounds and not over 92 pounds | ----- | 236 | 241 | 245 | 250 | 255 |
| Over 92 pounds and not over 93 pounds | ----- | 239 | 243 | 248 | 252 | 257 |
| Over 93 pounds and not over 94 pounds | ----- | 241 | 246 | 250 | 255 | 260 |
| Over 94 pounds and not over 95 pounds | ----- | 244 | 248 | 253 | 257 | 262 |
| Over 95 pounds and not over 96 pounds | ----- | 246 | 250 | 255 | 260 | 265 |
| Over 96 pounds and not over 97 pounds | ----- | 248 | 253 | 258 | 262 | 267 |
| Over 97 pounds and not over 98 pounds | ----- | 250 | 255 | 260 | 265 | 270 |
| Over 98 pounds and not over 99 pounds | ----- | 253 | 258 | 263 | 267 | 272 |
| Over 99 pounds and not over 100 pounds | ----- | 255 | 260 | 265 | 270 | 275 |
| Over 100 pounds, pound rates | ----- | 255 | 260 | 265 | 270 | 275 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-----------|-------------------------------|-----|-----|-----|-----|
| | | 51 | 52 | 53 | 54 | 55 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 2 pounds | 25 | 25 | 25 | 25 | 26 |
| Over 2 pounds and not over 3 pounds..... | 3 pounds | 28 | 28 | 28 | 28 | 28 |
| Over 3 pounds and not over 4 pounds..... | 4 pounds | 30 | 31 | 31 | 31 | 31 |
| Over 4 pounds and not over 5 pounds..... | 5 pounds | 33 | 33 | 33 | 34 | 34 |
| Over 5 pounds and not over 6 pounds..... | 6 pounds | 36 | 36 | 36 | 36 | 37 |
| Over 6 pounds and not over 7 pounds..... | 7 pounds | 38 | 39 | 39 | 39 | 40 |
| Over 7 pounds and not over 8 pounds..... | 8 pounds | 41 | 41 | 42 | 42 | 42 |
| Over 8 pounds and not over 9 pounds..... | 9 pounds | 43 | 44 | 44 | 45 | 45 |
| Over 9 pounds and not over 10 pounds..... | 10 pounds | 46 | 46 | 47 | 47 | 48 |
| Over 10 pounds and not over 11 pounds..... | 11 pounds | 49 | 49 | 50 | 50 | 51 |
| Over 11 pounds and not over 12 pounds..... | 12 pounds | 51 | 52 | 52 | 53 | 54 |
| Over 12 pounds and not over 13 pounds..... | 13 pounds | 54 | 54 | 55 | 56 | 56 |
| Over 13 pounds and not over 14 pounds..... | 14 pounds | 56 | 57 | 58 | 58 | 59 |
| Over 14 pounds and not over 15 pounds..... | 15 pounds | 59 | 60 | 60 | 61 | 62 |
| Over 15 pounds and not over 16 pounds..... | 16 pounds | 62 | 62 | 63 | 64 | 65 |
| Over 16 pounds and not over 17 pounds..... | 17 pounds | 64 | 65 | 66 | 67 | 68 |
| Over 17 pounds and not over 18 pounds..... | 18 pounds | 67 | 68 | 69 | 69 | 70 |
| Over 18 pounds and not over 19 pounds..... | 19 pounds | 69 | 70 | 71 | 72 | 73 |
| Over 19 pounds and not over 20 pounds..... | 20 pounds | 72 | 73 | 74 | 75 | 76 |
| Over 20 pounds and not over 21 pounds..... | 21 pounds | 75 | 76 | 77 | 78 | 79 |
| Over 21 pounds and not over 22 pounds..... | 22 pounds | 77 | 78 | 79 | 80 | 82 |
| Over 22 pounds and not over 23 pounds..... | 23 pounds | 80 | 81 | 82 | 83 | 84 |
| Over 23 pounds and not over 24 pounds..... | 24 pounds | 82 | 84 | 85 | 86 | 87 |
| Over 24 pounds and not over 25 pounds..... | 25 pounds | 85 | 86 | 87 | 89 | 90 |
| Over 25 pounds and not over 26 pounds..... | 26 pounds | 88 | 89 | 90 | 91 | 93 |
| Over 26 pounds and not over 27 pounds..... | 27 pounds | 90 | 92 | 93 | 94 | 96 |
| Over 27 pounds and not over 28 pounds..... | 28 pounds | 93 | 94 | 96 | 97 | 98 |
| Over 28 pounds and not over 29 pounds..... | 29 pounds | 95 | 97 | 98 | 100 | 101 |
| Over 29 pounds and not over 30 pounds..... | 30 pounds | 98 | 99 | 101 | 102 | 104 |
| Over 30 pounds and not over 31 pounds..... | 31 pounds | 101 | 102 | 104 | 105 | 107 |
| Over 31 pounds and not over 32 pounds..... | 32 pounds | 103 | 105 | 106 | 108 | 110 |
| Over 32 pounds and not over 33 pounds..... | 33 pounds | 106 | 107 | 109 | 111 | 112 |
| Over 33 pounds and not over 34 pounds..... | 34 pounds | 108 | 110 | 112 | 113 | 115 |
| Over 34 pounds and not over 35 pounds..... | 35 pounds | 111 | 113 | 114 | 116 | 118 |
| Over 35 pounds and not over 36 pounds..... | 36 pounds | 114 | 115 | 117 | 119 | 121 |
| Over 36 pounds and not over 37 pounds..... | 37 pounds | 116 | 118 | 120 | 122 | 124 |
| Over 37 pounds and not over 38 pounds..... | 38 pounds | 119 | 121 | 123 | 124 | 126 |
| Over 38 pounds and not over 39 pounds..... | 39 pounds | 121 | 123 | 125 | 127 | 129 |
| Over 39 pounds and not over 40 pounds..... | 40 pounds | 124 | 126 | 128 | 130 | 132 |
| Over 40 pounds and not over 41 pounds..... | 41 pounds | 127 | 129 | 131 | 133 | 135 |
| Over 41 pounds and not over 42 pounds..... | 42 pounds | 129 | 131 | 133 | 135 | 138 |
| Over 42 pounds and not over 43 pounds..... | 43 pounds | 132 | 134 | 136 | 138 | 140 |
| Over 43 pounds and not over 44 pounds..... | 44 pounds | 134 | 137 | 139 | 141 | 143 |
| Over 44 pounds and not over 45 pounds..... | 45 pounds | 137 | 139 | 141 | 144 | 146 |
| Over 45 pounds and not over 46 pounds..... | 46 pounds | 140 | 142 | 144 | 146 | 149 |
| Over 46 pounds and not over 47 pounds..... | 47 pounds | 142 | 145 | 147 | 149 | 152 |
| Over 47 pounds and not over 48 pounds..... | 48 pounds | 145 | 147 | 150 | 152 | 154 |
| Over 48 pounds and not over 49 pounds..... | 49 pounds | 147 | 150 | 152 | 155 | 157 |
| Over 49 pounds and not over 50 pounds..... | 50 pounds | 150 | 152 | 155 | 157 | 160 |
| Over 50 pounds and not over 51 pounds..... | 51 pounds | 153 | 155 | 158 | 160 | 163 |
| Over 51 pounds and not over 52 pounds..... | 52 pounds | 155 | 158 | 160 | 163 | 166 |
| Over 52 pounds and not over 53 pounds..... | 53 pounds | 158 | 160 | 163 | 166 | 168 |
| Over 53 pounds and not over 54 pounds..... | 54 pounds | 160 | 163 | 166 | 168 | 171 |
| Over 54 pounds and not over 55 pounds..... | 55 pounds | 163 | 166 | 168 | 171 | 174 |
| Over 55 pounds and not over 56 pounds..... | 56 pounds | 166 | 168 | 171 | 174 | 177 |
| Over 56 pounds and not over 57 pounds..... | 57 pounds | 168 | 171 | 174 | 177 | 180 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 51 | 52 | 53 | 54 | 55 |
| Over 57 pounds and not over 58 pounds | ----- | 171 | 174 | 177 | 179 | 182 |
| Over 58 pounds and not over 59 pounds | ----- | 173 | 176 | 179 | 182 | 185 |
| Over 59 pounds and not over 60 pounds | ----- | 176 | 179 | 182 | 185 | 188 |
| Over 60 pounds and not over 61 pounds | ----- | 179 | 182 | 185 | 188 | 191 |
| Over 61 pounds and not over 62 pounds | ----- | 181 | 184 | 187 | 190 | 194 |
| Over 62 pounds and not over 63 pounds | ----- | 184 | 187 | 190 | 193 | 196 |
| Over 63 pounds and not over 64 pounds | ----- | 186 | 190 | 193 | 196 | 199 |
| Over 64 pounds and not over 65 pounds | ----- | 189 | 192 | 195 | 199 | 202 |
| Over 65 pounds and not over 66 pounds | ----- | 192 | 195 | 198 | 201 | 205 |
| Over 66 pounds and not over 67 pounds | ----- | 194 | 198 | 201 | 204 | 208 |
| Over 67 pounds and not over 68 pounds | ----- | 197 | 200 | 204 | 207 | 210 |
| Over 68 pounds and not over 69 pounds | ----- | 199 | 203 | 206 | 210 | 213 |
| Over 69 pounds and not over 70 pounds | ----- | 202 | 205 | 209 | 212 | 216 |
| Over 70 pounds and not over 71 pounds | ----- | 205 | 208 | 212 | 215 | 219 |
| Over 71 pounds and not over 72 pounds | ----- | 207 | 211 | 214 | 218 | 222 |
| Over 72 pounds and not over 73 pounds | ----- | 210 | 213 | 217 | 221 | 224 |
| Over 73 pounds and not over 74 pounds | ----- | 212 | 216 | 220 | 223 | 227 |
| Over 74 pounds and not over 75 pounds | ----- | 215 | 219 | 222 | 226 | 230 |
| Over 75 pounds and not over 76 pounds | ----- | 218 | 221 | 225 | 229 | 233 |
| Over 76 pounds and not over 77 pounds | ----- | 220 | 224 | 228 | 232 | 236 |
| Over 77 pounds and not over 78 pounds | ----- | 223 | 227 | 231 | 234 | 238 |
| Over 78 pounds and not over 79 pounds | ----- | 225 | 229 | 233 | 237 | 241 |
| Over 79 pounds and not over 80 pounds | ----- | 228 | 232 | 236 | 240 | 244 |
| Over 80 pounds and not over 81 pounds | ----- | 231 | 235 | 239 | 243 | 247 |
| Over 81 pounds and not over 82 pounds | ----- | 233 | 237 | 241 | 245 | 250 |
| Over 82 pounds and not over 83 pounds | ----- | 236 | 240 | 244 | 248 | 252 |
| Over 83 pounds and not over 84 pounds | ----- | 238 | 243 | 247 | 251 | 255 |
| Over 84 pounds and not over 85 pounds | ----- | 241 | 245 | 249 | 254 | 258 |
| Over 85 pounds and not over 86 pounds | ----- | 244 | 248 | 252 | 256 | 261 |
| Over 86 pounds and not over 87 pounds | ----- | 246 | 251 | 255 | 259 | 264 |
| Over 87 pounds and not over 88 pounds | ----- | 249 | 253 | 258 | 262 | 266 |
| Over 88 pounds and not over 89 pounds | ----- | 251 | 256 | 260 | 265 | 269 |
| Over 89 pounds and not over 90 pounds | ----- | 254 | 258 | 263 | 267 | 272 |
| Over 90 pounds and not over 91 pounds | ----- | 257 | 261 | 266 | 270 | 275 |
| Over 91 pounds and not over 92 pounds | ----- | 259 | 264 | 268 | 273 | 278 |
| Over 92 pounds and not over 93 pounds | ----- | 262 | 266 | 271 | 276 | 280 |
| Over 93 pounds and not over 94 pounds | ----- | 264 | 269 | 274 | 278 | 283 |
| Over 94 pounds and not over 95 pounds | ----- | 267 | 272 | 276 | 281 | 286 |
| Over 95 pounds and not over 96 pounds | ----- | 270 | 274 | 279 | 284 | 289 |
| Over 96 pounds and not over 97 pounds | ----- | 272 | 277 | 282 | 287 | 292 |
| Over 97 pounds and not over 98 pounds | ----- | 275 | 280 | 285 | 289 | 294 |
| Over 98 pounds and not over 99 pounds | ----- | 277 | 282 | 287 | 292 | 297 |
| Over 99 pounds and not over 100 pounds | ----- | 280 | 285 | 290 | 295 | 300 |
| Over 100 pounds, pound rates | ----- | 280 | 285 | 290 | 295 | 300 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 56 | 57 | 58 | 59 | 60 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 26 | 26 | 26 | 26 | 26 |
| Over 2 pounds and not over 3 pounds..... | | 29 | 29 | 29 | 29 | 29 |
| Over 3 pounds and not over 4 pounds..... | | 31 | 32 | 32 | 32 | 32 |
| Over 4 pounds and not over 5 pounds..... | | 34 | 34 | 35 | 35 | 35 |
| Over 5 pounds and not over 6 pounds..... | | 37 | 37 | 38 | 38 | 38 |
| Over 6 pounds and not over 7 pounds..... | | 40 | 40 | 41 | 41 | 41 |
| Over 7 pounds and not over 8 pounds..... | | 43 | 43 | 44 | 44 | 44 |
| Over 8 pounds and not over 9 pounds..... | | 46 | 46 | 47 | 47 | 47 |
| Over 9 pounds and not over 10 pounds..... | | 48 | 49 | 49 | 50 | 50 |
| Over 10 pounds and not over 11 pounds..... | | 51 | 52 | 52 | 53 | 53 |
| Over 11 pounds and not over 12 pounds..... | | 54 | 55 | 55 | 56 | 57 |
| Over 12 pounds and not over 13 pounds..... | | 57 | 58 | 58 | 59 | 60 |
| Over 13 pounds and not over 14 pounds..... | | 60 | 61 | 61 | 62 | 63 |
| Over 14 pounds and not over 15 pounds..... | | 63 | 63 | 64 | 65 | 66 |
| Over 15 pounds and not over 16 pounds..... | | 66 | 66 | 67 | 68 | 69 |
| Over 16 pounds and not over 17 pounds..... | | 68 | 69 | 70 | 71 | 72 |
| Over 17 pounds and not over 18 pounds..... | | 71 | 72 | 73 | 74 | 75 |
| Over 18 pounds and not over 19 pounds..... | | 74 | 75 | 76 | 77 | 78 |
| Over 19 pounds and not over 20 pounds..... | | 77 | 78 | 79 | 80 | 81 |
| Over 20 pounds and not over 21 pounds..... | | 80 | 81 | 82 | 83 | 84 |
| Over 21 pounds and not over 22 pounds..... | | 83 | 84 | 85 | 86 | 87 |
| Over 22 pounds and not over 23 pounds..... | | 86 | 87 | 88 | 89 | 90 |
| Over 23 pounds and not over 24 pounds..... | | 88 | 90 | 91 | 92 | 93 |
| Over 24 pounds and not over 25 pounds..... | | 91 | 92 | 94 | 95 | 96 |
| Over 25 pounds and not over 26 pounds..... | | 94 | 95 | 97 | 98 | 99 |
| Over 26 pounds and not over 27 pounds..... | | 97 | 98 | 100 | 101 | 102 |
| Over 27 pounds and not over 28 pounds..... | | 100 | 101 | 103 | 104 | 105 |
| Over 28 pounds and not over 29 pounds..... | | 103 | 104 | 106 | 107 | 108 |
| Over 29 pounds and not over 30 pounds..... | | 105 | 107 | 108 | 110 | 111 |
| Over 30 pounds and not over 31 pounds..... | | 108 | 110 | 111 | 113 | 115 |
| Over 31 pounds and not over 32 pounds..... | | 111 | 113 | 114 | 116 | 118 |
| Over 32 pounds and not over 33 pounds..... | | 114 | 116 | 117 | 119 | 121 |
| Over 33 pounds and not over 34 pounds..... | | 117 | 119 | 120 | 122 | 124 |
| Over 34 pounds and not over 35 pounds..... | | 120 | 121 | 123 | 125 | 127 |
| Over 35 pounds and not over 36 pounds..... | | 123 | 124 | 126 | 128 | 130 |
| Over 36 pounds and not over 37 pounds..... | | 125 | 127 | 129 | 131 | 133 |
| Over 37 pounds and not over 38 pounds..... | | 128 | 130 | 132 | 134 | 136 |
| Over 38 pounds and not over 39 pounds..... | | 131 | 133 | 135 | 137 | 139 |
| Over 39 pounds and not over 40 pounds..... | | 134 | 136 | 138 | 140 | 142 |
| Over 40 pounds and not over 41 pounds..... | | 137 | 139 | 141 | 143 | 145 |
| Over 41 pounds and not over 42 pounds..... | | 140 | 142 | 144 | 146 | 148 |
| Over 42 pounds and not over 43 pounds..... | | 143 | 145 | 147 | 149 | 151 |
| Over 43 pounds and not over 44 pounds..... | | 145 | 148 | 150 | 152 | 154 |
| Over 44 pounds and not over 45 pounds..... | | 148 | 150 | 153 | 155 | 157 |
| Over 45 pounds and not over 46 pounds..... | | 151 | 153 | 156 | 158 | 160 |
| Over 46 pounds and not over 47 pounds..... | | 154 | 156 | 159 | 161 | 163 |
| Over 47 pounds and not over 48 pounds..... | | 157 | 159 | 162 | 164 | 166 |
| Over 48 pounds and not over 49 pounds..... | | 160 | 162 | 165 | 167 | 169 |
| Over 49 pounds and not over 50 pounds..... | | 162 | 165 | 167 | 170 | 172 |
| Over 50 pounds and not over 51 pounds..... | | 165 | 168 | 170 | 173 | 176 |
| Over 51 pounds and not over 52 pounds..... | | 168 | 171 | 173 | 176 | 179 |
| Over 52 pounds and not over 53 pounds..... | | 171 | 174 | 176 | 179 | 182 |
| Over 53 pounds and not over 54 pounds..... | | 174 | 177 | 179 | 182 | 185 |
| Over 54 pounds and not over 55 pounds..... | | 177 | 179 | 182 | 185 | 188 |
| Over 55 pounds and not over 56 pounds..... | | 180 | 182 | 185 | 188 | 191 |
| Over 56 pounds and not over 57 pounds..... | | 182 | 185 | 188 | 191 | 194 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 56 | 57 | 58 | 59 | 60 |
| Over 57 pounds and not over 58 pounds | ----- | 185 | 188 | 191 | 194 | 197 |
| Over 58 pounds and not over 59 pounds | ----- | 188 | 191 | 194 | 197 | 200 |
| Over 59 pounds and not over 60 pounds | ----- | 191 | 194 | 197 | 200 | 203 |
| Over 60 pounds and not over 61 pounds | ----- | 194 | 197 | 200 | 203 | 206 |
| Over 61 pounds and not over 62 pounds | ----- | 197 | 200 | 203 | 206 | 209 |
| Over 62 pounds and not over 63 pounds | ----- | 200 | 203 | 206 | 209 | 212 |
| Over 63 pounds and not over 64 pounds | ----- | 202 | 206 | 209 | 212 | 215 |
| Over 64 pounds and not over 65 pounds | ----- | 205 | 208 | 212 | 215 | 218 |
| Over 65 pounds and not over 66 pounds | ----- | 208 | 211 | 215 | 218 | 221 |
| Over 66 pounds and not over 67 pounds | ----- | 211 | 214 | 218 | 221 | 224 |
| Over 67 pounds and not over 68 pounds | ----- | 214 | 217 | 221 | 224 | 227 |
| Over 68 pounds and not over 69 pounds | ----- | 217 | 220 | 224 | 227 | 230 |
| Over 69 pounds and not over 70 pounds | ----- | 219 | 223 | 226 | 230 | 233 |
| Over 70 pounds and not over 71 pounds | ----- | 222 | 226 | 229 | 233 | 237 |
| Over 71 pounds and not over 72 pounds | ----- | 225 | 229 | 232 | 236 | 240 |
| Over 72 pounds and not over 73 pounds | ----- | 228 | 232 | 235 | 239 | 243 |
| Over 73 pounds and not over 74 pounds | ----- | 231 | 235 | 238 | 242 | 246 |
| Over 74 pounds and not over 75 pounds | ----- | 234 | 237 | 241 | 245 | 249 |
| Over 75 pounds and not over 76 pounds | ----- | 237 | 240 | 244 | 248 | 252 |
| Over 76 pounds and not over 77 pounds | ----- | 239 | 243 | 247 | 251 | 255 |
| Over 77 pounds and not over 78 pounds | ----- | 242 | 246 | 250 | 254 | 258 |
| Over 78 pounds and not over 79 pounds | ----- | 245 | 249 | 253 | 257 | 261 |
| Over 79 pounds and not over 80 pounds | ----- | 248 | 252 | 256 | 260 | 264 |
| Over 80 pounds and not over 81 pounds | ----- | 251 | 255 | 259 | 263 | 267 |
| Over 81 pounds and not over 82 pounds | ----- | 254 | 258 | 262 | 266 | 270 |
| Over 82 pounds and not over 83 pounds | ----- | 257 | 261 | 265 | 269 | 273 |
| Over 83 pounds and not over 84 pounds | ----- | 259 | 264 | 268 | 272 | 276 |
| Over 84 pounds and not over 85 pounds | ----- | 262 | 266 | 271 | 275 | 279 |
| Over 85 pounds and not over 86 pounds | ----- | 265 | 269 | 274 | 278 | 282 |
| Over 86 pounds and not over 87 pounds | ----- | 268 | 272 | 277 | 281 | 285 |
| Over 87 pounds and not over 88 pounds | ----- | 271 | 275 | 280 | 284 | 288 |
| Over 88 pounds and not over 89 pounds | ----- | 274 | 278 | 283 | 287 | 291 |
| Over 89 pounds and not over 90 pounds | ----- | 276 | 281 | 285 | 290 | 294 |
| Over 90 pounds and not over 91 pounds | ----- | 279 | 284 | 288 | 293 | 298 |
| Over 91 pounds and not over 92 pounds | ----- | 282 | 287 | 291 | 296 | 301 |
| Over 92 pounds and not over 93 pounds | ----- | 285 | 290 | 294 | 299 | 304 |
| Over 93 pounds and not over 94 pounds | ----- | 288 | 293 | 297 | 302 | 307 |
| Over 94 pounds and not over 95 pounds | ----- | 291 | 295 | 300 | 305 | 310 |
| Over 95 pounds and not over 96 pounds | ----- | 294 | 298 | 303 | 308 | 313 |
| Over 96 pounds and not over 97 pounds | ----- | 296 | 301 | 306 | 311 | 316 |
| Over 97 pounds and not over 98 pounds | ----- | 299 | 304 | 309 | 314 | 319 |
| Over 98 pounds and not over 99 pounds | ----- | 302 | 307 | 312 | 317 | 322 |
| Over 99 pounds and not over 100 pounds | ----- | 305 | 310 | 315 | 320 | 325 |
| Over 100 pounds, pound rates | ----- | 305 | 310 | 315 | 320 | 325 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-----------|-------------------------------|-----|-----|-----|-----|
| | | 61 | 62 | 63 | 64 | 65 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | 2 pounds | 26 | 26 | 26 | 26 | 27 |
| Over 2 pounds and not over 3 pounds..... | 3 pounds | 29 | 29 | 30 | 30 | 30 |
| Over 3 pounds and not over 4 pounds..... | 4 pounds | 32 | 33 | 33 | 33 | 33 |
| Over 4 pounds and not over 5 pounds..... | 5 pounds | 35 | 36 | 36 | 36 | 36 |
| Over 5 pounds and not over 6 pounds..... | 6 pounds | 39 | 39 | 39 | 39 | 40 |
| Over 6 pounds and not over 7 pounds..... | 7 pounds | 42 | 42 | 42 | 43 | 43 |
| Over 7 pounds and not over 8 pounds..... | 8 pounds | 45 | 45 | 46 | 46 | 46 |
| Over 8 pounds and not over 9 pounds..... | 9 pounds | 48 | 48 | 49 | 49 | 50 |
| Over 9 pounds and not over 10 pounds..... | 10 pounds | 51 | 51 | 52 | 52 | 53 |
| Over 10 pounds and not over 11 pounds..... | 11 pounds | 54 | 55 | 55 | 56 | 56 |
| Over 11 pounds and not over 12 pounds..... | 12 pounds | 57 | 58 | 58 | 59 | 60 |
| Over 12 pounds and not over 13 pounds..... | 13 pounds | 60 | 61 | 62 | 62 | 63 |
| Over 13 pounds and not over 14 pounds..... | 14 pounds | 63 | 64 | 65 | 65 | 66 |
| Over 14 pounds and not over 15 pounds..... | 15 pounds | 66 | 67 | 68 | 69 | 69 |
| Over 15 pounds and not over 16 pounds..... | 16 pounds | 70 | 70 | 71 | 72 | 73 |
| Over 16 pounds and not over 17 pounds..... | 17 pounds | 73 | 74 | 74 | 75 | 76 |
| Over 17 pounds and not over 18 pounds..... | 18 pounds | 76 | 77 | 78 | 78 | 79 |
| Over 18 pounds and not over 19 pounds..... | 19 pounds | 79 | 80 | 81 | 82 | 83 |
| Over 19 pounds and not over 20 pounds..... | 20 pounds | 82 | 83 | 84 | 85 | 86 |
| Over 20 pounds and not over 21 pounds..... | 21 pounds | 85 | 86 | 87 | 88 | 89 |
| Over 21 pounds and not over 22 pounds..... | 22 pounds | 88 | 89 | 90 | 91 | 93 |
| Over 22 pounds and not over 23 pounds..... | 23 pounds | 91 | 92 | 94 | 95 | 96 |
| Over 23 pounds and not over 24 pounds..... | 24 pounds | 94 | 96 | 97 | 98 | 99 |
| Over 24 pounds and not over 25 pounds..... | 25 pounds | 97 | 99 | 100 | 101 | 102 |
| Over 25 pounds and not over 26 pounds..... | 26 pounds | 101 | 102 | 103 | 104 | 106 |
| Over 26 pounds and not over 27 pounds..... | 27 pounds | 104 | 105 | 106 | 108 | 109 |
| Over 27 pounds and not over 28 pounds..... | 28 pounds | 107 | 108 | 110 | 111 | 112 |
| Over 28 pounds and not over 29 pounds..... | 29 pounds | 110 | 111 | 113 | 114 | 116 |
| Over 29 pounds and not over 30 pounds..... | 30 pounds | 113 | 114 | 116 | 117 | 119 |
| Over 30 pounds and not over 31 pounds..... | 31 pounds | 116 | 118 | 119 | 121 | 122 |
| Over 31 pounds and not over 32 pounds..... | 32 pounds | 119 | 121 | 122 | 124 | 126 |
| Over 32 pounds and not over 33 pounds..... | 33 pounds | 122 | 124 | 126 | 127 | 129 |
| Over 33 pounds and not over 34 pounds..... | 34 pounds | 125 | 127 | 129 | 130 | 132 |
| Over 34 pounds and not over 35 pounds..... | 35 pounds | 128 | 130 | 132 | 131 | 135 |
| Over 35 pounds and not over 36 pounds..... | 36 pounds | 132 | 133 | 135 | 137 | 139 |
| Over 36 pounds and not over 37 pounds..... | 37 pounds | 135 | 137 | 138 | 140 | 142 |
| Over 37 pounds and not over 38 pounds..... | 38 pounds | 138 | 140 | 142 | 143 | 145 |
| Over 38 pounds and not over 39 pounds..... | 39 pounds | 141 | 143 | 145 | 147 | 149 |
| Over 39 pounds and not over 40 pounds..... | 40 pounds | 144 | 146 | 148 | 150 | 152 |
| Over 40 pounds and not over 41 pounds..... | 41 pounds | 147 | 149 | 151 | 153 | 155 |
| Over 41 pounds and not over 42 pounds..... | 42 pounds | 150 | 152 | 154 | 156 | 159 |
| Over 42 pounds and not over 43 pounds..... | 43 pounds | 153 | 155 | 158 | 160 | 162 |
| Over 43 pounds and not over 44 pounds..... | 44 pounds | 156 | 159 | 161 | 163 | 165 |
| Over 44 pounds and not over 45 pounds..... | 45 pounds | 159 | 162 | 164 | 166 | 168 |
| Over 45 pounds and not over 46 pounds..... | 46 pounds | 163 | 165 | 167 | 169 | 172 |
| Over 46 pounds and not over 47 pounds..... | 47 pounds | 166 | 168 | 170 | 173 | 175 |
| Over 47 pounds and not over 48 pounds..... | 48 pounds | 169 | 171 | 174 | 176 | 178 |
| Over 48 pounds and not over 49 pounds..... | 49 pounds | 172 | 174 | 177 | 179 | 182 |
| Over 49 pounds and not over 50 pounds..... | 50 pounds | 175 | 177 | 180 | 182 | 185 |
| Over 50 pounds and not over 51 pounds..... | 51 pounds | 178 | 181 | 183 | 186 | 188 |
| Over 51 pounds and not over 52 pounds..... | 52 pounds | 181 | 184 | 186 | 189 | 192 |
| Over 52 pounds and not over 53 pounds..... | 53 pounds | 184 | 187 | 190 | 192 | 195 |
| Over 53 pounds and not over 54 pounds..... | 54 pounds | 187 | 190 | 193 | 195 | 198 |
| Over 54 pounds and not over 55 pounds..... | 55 pounds | 190 | 193 | 196 | 199 | 201 |
| Over 55 pounds and not over 56 pounds..... | 56 pounds | 194 | 196 | 199 | 202 | 205 |
| Over 56 pounds and not over 57 pounds..... | 57 pounds | 197 | 200 | 202 | 205 | 208 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | Merchandise rate table number | | | | |
|---|-------------------------------|-----|-----|-----|-----|
| | 61 | 62 | 63 | 64 | 65 |
| Over 57 pounds and not over 58 pounds..... | 200 | 203 | 206 | 208 | 211 |
| Over 58 pounds and not over 59 pounds..... | 203 | 206 | 209 | 212 | 215 |
| Over 59 pounds and not over 60 pounds..... | 206 | 209 | 212 | 215 | 218 |
| Over 60 pounds and not over 61 pounds..... | 209 | 212 | 215 | 218 | 221 |
| Over 61 pounds and not over 62 pounds..... | 212 | 215 | 218 | 221 | 225 |
| Over 62 pounds and not over 63 pounds..... | 215 | 218 | 222 | 225 | 228 |
| Over 63 pounds and not over 64 pounds..... | 218 | 222 | 225 | 228 | 231 |
| Over 64 pounds and not over 65 pounds..... | 221 | 225 | 228 | 231 | 234 |
| Over 65 pounds and not over 66 pounds..... | 225 | 228 | 231 | 234 | 238 |
| Over 66 pounds and not over 67 pounds..... | 228 | 231 | 234 | 238 | 241 |
| Over 67 pounds and not over 68 pounds..... | 231 | 234 | 238 | 241 | 244 |
| Over 68 pounds and not over 69 pounds..... | 234 | 237 | 241 | 244 | 248 |
| Over 69 pounds and not over 70 pounds..... | 237 | 240 | 244 | 247 | 251 |
| Over 70 pounds and not over 71 pounds..... | 240 | 244 | 247 | 251 | 254 |
| Over 71 pounds and not over 72 pounds..... | 243 | 247 | 250 | 254 | 258 |
| Over 72 pounds and not over 73 pounds..... | 246 | 250 | 254 | 257 | 261 |
| Over 73 pounds and not over 74 pounds..... | 249 | 253 | 257 | 260 | 264 |
| Over 74 pounds and not over 75 pounds..... | 252 | 256 | 260 | 264 | 267 |
| Over 75 pounds and not over 76 pounds..... | 256 | 259 | 263 | 267 | 271 |
| Over 76 pounds and not over 77 pounds..... | 259 | 263 | 266 | 270 | 274 |
| Over 77 pounds and not over 78 pounds..... | 262 | 266 | 270 | 273 | 277 |
| Over 78 pounds and not over 79 pounds..... | 265 | 269 | 273 | 277 | 281 |
| Over 79 pounds and not over 80 pounds..... | 268 | 272 | 276 | 280 | 284 |
| Over 80 pounds and not over 81 pounds..... | 271 | 275 | 279 | 283 | 287 |
| Over 81 pounds and not over 82 pounds..... | 274 | 278 | 282 | 286 | 291 |
| Over 82 pounds and not over 83 pounds..... | 277 | 281 | 286 | 290 | 294 |
| Over 83 pounds and not over 84 pounds..... | 280 | 285 | 289 | 293 | 297 |
| Over 84 pounds and not over 85 pounds..... | 283 | 288 | 292 | 296 | 300 |
| Over 85 pounds and not over 86 pounds..... | 287 | 291 | 295 | 299 | 304 |
| Over 86 pounds and not over 87 pounds..... | 290 | 294 | 298 | 303 | 307 |
| Over 87 pounds and not over 88 pounds..... | 293 | 297 | 302 | 306 | 310 |
| Over 88 pounds and not over 89 pounds..... | 296 | 300 | 305 | 309 | 314 |
| Over 89 pounds and not over 90 pounds..... | 299 | 303 | 308 | 312 | 317 |
| Over 90 pounds and not over 91 pounds..... | 302 | 307 | 311 | 316 | 320 |
| Over 91 pounds and not over 92 pounds..... | 305 | 310 | 314 | 319 | 324 |
| Over 92 pounds and not over 93 pounds..... | 308 | 313 | 318 | 322 | 327 |
| Over 93 pounds and not over 94 pounds..... | 311 | 316 | 321 | 325 | 330 |
| Over 94 pounds and not over 95 pounds..... | 314 | 319 | 324 | 329 | 333 |
| Over 95 pounds and not over 96 pounds..... | 318 | 322 | 327 | 332 | 337 |
| Over 96 pounds and not over 97 pounds..... | 321 | 326 | 330 | 335 | 340 |
| Over 97 pounds and not over 98 pounds..... | 324 | 329 | 334 | 338 | 343 |
| Over 98 pounds and not over 99 pounds..... | 327 | 332 | 337 | 342 | 347 |
| Over 99 pounds and not over 100 pounds..... | 330 | 335 | 340 | 345 | 350 |
| Over 100 pounds, pound rates..... | 330 | 335 | 340 | 345 | 350 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 66 | 67 | 68 | 69 | 70 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 27 | 27 | 27 | 27 | 27 |
| Over 2 pounds and not over 3 pounds..... | | 30 | 30 | 30 | 30 | 31 |
| Over 3 pounds and not over 4 pounds..... | | 33 | 34 | 34 | 34 | 34 |
| Over 4 pounds and not over 5 pounds..... | | 37 | 37 | 37 | 37 | 38 |
| Over 5 pounds and not over 6 pounds..... | | 40 | 40 | 41 | 41 | 41 |
| Over 6 pounds and not over 7 pounds..... | | 43 | 44 | 44 | 44 | 45 |
| Over 7 pounds and not over 8 pounds..... | | 47 | 47 | 48 | 48 | 48 |
| Over 8 pounds and not over 9 pounds..... | | 50 | 51 | 51 | 51 | 52 |
| Over 9 pounds and not over 10 pounds..... | | 53 | 54 | 54 | 55 | 55 |
| Over 10 pounds and not over 11 pounds..... | | 57 | 57 | 58 | 58 | 59 |
| Over 11 pounds and not over 12 pounds..... | | 60 | 61 | 61 | 62 | 63 |
| Over 12 pounds and not over 13 pounds..... | | 64 | 64 | 65 | 65 | 66 |
| Over 13 pounds and not over 14 pounds..... | | 67 | 68 | 68 | 69 | 70 |
| Over 14 pounds and not over 15 pounds..... | | 70 | 71 | 72 | 72 | 73 |
| Over 15 pounds and not over 16 pounds..... | | 74 | 74 | 75 | 76 | 77 |
| Over 16 pounds and not over 17 pounds..... | | 77 | 78 | 79 | 79 | 80 |
| Over 17 pounds and not over 18 pounds..... | | 80 | 81 | 82 | 83 | 84 |
| Over 18 pounds and not over 19 pounds..... | | 84 | 85 | 86 | 86 | 87 |
| Over 19 pounds and not over 20 pounds..... | | 87 | 88 | 89 | 90 | 91 |
| Over 20 pounds and not over 21 pounds..... | | 90 | 91 | 92 | 93 | 95 |
| Over 21 pounds and not over 22 pounds..... | | 94 | 95 | 96 | 97 | 98 |
| Over 22 pounds and not over 23 pounds..... | | 97 | 98 | 99 | 100 | 102 |
| Over 23 pounds and not over 24 pounds..... | | 100 | 102 | 103 | 104 | 105 |
| Over 24 pounds and not over 25 pounds..... | | 104 | 105 | 106 | 107 | 109 |
| Over 25 pounds and not over 26 pounds..... | | 107 | 108 | 110 | 111 | 112 |
| Over 26 pounds and not over 27 pounds..... | | 110 | 112 | 113 | 114 | 116 |
| Over 27 pounds and not over 28 pounds..... | | 114 | 115 | 117 | 118 | 119 |
| Over 28 pounds and not over 29 pounds..... | | 117 | 119 | 120 | 121 | 123 |
| Over 29 pounds and not over 30 pounds..... | | 120 | 122 | 123 | 125 | 126 |
| Over 30 pounds and not over 31 pounds..... | | 124 | 125 | 127 | 128 | 130 |
| Over 31 pounds and not over 32 pounds..... | | 127 | 129 | 130 | 132 | 134 |
| Over 32 pounds and not over 33 pounds..... | | 131 | 132 | 134 | 135 | 137 |
| Over 33 pounds and not over 34 pounds..... | | 134 | 136 | 137 | 139 | 141 |
| Over 34 pounds and not over 35 pounds..... | | 137 | 139 | 141 | 142 | 144 |
| Over 35 pounds and not over 36 pounds..... | | 141 | 142 | 144 | 146 | 148 |
| Over 36 pounds and not over 37 pounds..... | | 144 | 146 | 148 | 149 | 151 |
| Over 37 pounds and not over 38 pounds..... | | 147 | 149 | 151 | 153 | 155 |
| Over 38 pounds and not over 39 pounds..... | | 151 | 153 | 155 | 156 | 158 |
| Over 39 pounds and not over 40 pounds..... | | 154 | 156 | 158 | 160 | 162 |
| Over 40 pounds and not over 41 pounds..... | | 157 | 159 | 161 | 163 | 166 |
| Over 41 pounds and not over 42 pounds..... | | 161 | 163 | 165 | 167 | 169 |
| Over 42 pounds and not over 43 pounds..... | | 164 | 166 | 168 | 170 | 173 |
| Over 43 pounds and not over 44 pounds..... | | 167 | 170 | 172 | 174 | 176 |
| Over 44 pounds and not over 45 pounds..... | | 171 | 173 | 175 | 177 | 180 |
| Over 45 pounds and not over 46 pounds..... | | 174 | 176 | 179 | 181 | 183 |
| Over 46 pounds and not over 47 pounds..... | | 177 | 180 | 182 | 184 | 187 |
| Over 47 pounds and not over 48 pounds..... | | 181 | 183 | 186 | 188 | 190 |
| Over 48 pounds and not over 49 pounds..... | | 184 | 187 | 189 | 191 | 194 |
| Over 49 pounds and not over 50 pounds..... | | 187 | 190 | 192 | 195 | 197 |
| Over 50 pounds and not over 51 pounds..... | | 191 | 193 | 196 | 198 | 201 |
| Over 51 pounds and not over 52 pounds..... | | 194 | 197 | 199 | 202 | 205 |
| Over 52 pounds and not over 53 pounds..... | | 198 | 200 | 203 | 205 | 208 |
| Over 53 pounds and not over 54 pounds..... | | 201 | 204 | 206 | 209 | 212 |
| Over 54 pounds and not over 55 pounds..... | | 204 | 207 | 210 | 212 | 215 |
| Over 55 pounds and not over 56 pounds..... | | 208 | 210 | 213 | 216 | 219 |
| Over 56 pounds and not over 57 pounds..... | | 211 | 214 | 217 | 219 | 222 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | | | | Merchandise rate table number | | | | |
|---|-----|-----|-----|-----|-------------------------------|----|----|----|----|
| | | | | | 66 | 67 | 68 | 69 | 70 |
| Over 57 pounds and not over 58 pounds..... | 214 | 217 | 220 | 223 | 226 | | | | |
| Over 58 pounds and not over 59 pounds..... | 218 | 221 | 224 | 226 | 229 | | | | |
| Over 59 pounds and not over 60 pounds..... | 221 | 224 | 227 | 230 | 233 | | | | |
| Over 60 pounds and not over 61 pounds..... | 224 | 227 | 230 | 233 | 237 | | | | |
| Over 61 pounds and not over 62 pounds..... | 228 | 231 | 234 | 237 | 240 | | | | |
| Over 62 pounds and not over 63 pounds..... | 231 | 234 | 237 | 240 | 244 | | | | |
| Over 63 pounds and not over 64 pounds..... | 234 | 238 | 241 | 244 | 247 | | | | |
| Over 64 pounds and not over 65 pounds..... | 238 | 241 | 244 | 247 | 251 | | | | |
| Over 65 pounds and not over 66 pounds..... | 241 | 244 | 248 | 251 | 254 | | | | |
| Over 66 pounds and not over 67 pounds..... | 244 | 248 | 251 | 254 | 258 | | | | |
| Over 67 pounds and not over 68 pounds..... | 248 | 251 | 255 | 258 | 261 | | | | |
| Over 68 pounds and not over 69 pounds..... | 251 | 255 | 258 | 261 | 265 | | | | |
| Over 69 pounds and not over 70 pounds..... | 254 | 258 | 261 | 265 | 268 | | | | |
| Over 70 pounds and not over 71 pounds..... | 258 | 261 | 265 | 268 | 272 | | | | |
| Over 71 pounds and not over 72 pounds..... | 261 | 265 | 268 | 272 | 276 | | | | |
| Over 72 pounds and not over 73 pounds..... | 265 | 268 | 272 | 275 | 279 | | | | |
| Over 73 pounds and not over 74 pounds..... | 268 | 272 | 275 | 279 | 283 | | | | |
| Over 74 pounds and not over 75 pounds..... | 271 | 275 | 279 | 282 | 286 | | | | |
| Over 75 pounds and not over 76 pounds..... | 275 | 278 | 282 | 286 | 290 | | | | |
| Over 76 pounds and not over 77 pounds..... | 278 | 282 | 286 | 289 | 293 | | | | |
| Over 77 pounds and not over 78 pounds..... | 281 | 285 | 289 | 293 | 297 | | | | |
| Over 78 pounds and not over 79 pounds..... | 285 | 289 | 293 | 296 | 300 | | | | |
| Over 79 pounds and not over 80 pounds..... | 288 | 292 | 296 | 300 | 304 | | | | |
| Over 80 pounds and not over 81 pounds..... | 291 | 295 | 299 | 303 | 308 | | | | |
| Over 81 pounds and not over 82 pounds..... | 295 | 299 | 303 | 307 | 311 | | | | |
| Over 82 pounds and not over 83 pounds..... | 298 | 302 | 306 | 310 | 315 | | | | |
| Over 83 pounds and not over 84 pounds..... | 301 | 306 | 310 | 314 | 318 | | | | |
| Over 84 pounds and not over 85 pounds..... | 305 | 309 | 313 | 317 | 322 | | | | |
| Over 85 pounds and not over 86 pounds..... | 308 | 312 | 317 | 321 | 325 | | | | |
| Over 86 pounds and not over 87 pounds..... | 311 | 316 | 320 | 324 | 329 | | | | |
| Over 87 pounds and not over 88 pounds..... | 315 | 319 | 324 | 328 | 332 | | | | |
| Over 88 pounds and not over 89 pounds..... | 318 | 323 | 327 | 331 | 336 | | | | |
| Over 89 pounds and not over 90 pounds..... | 321 | 326 | 330 | 335 | 339 | | | | |
| Over 90 pounds and not over 91 pounds..... | 325 | 329 | 334 | 338 | 343 | | | | |
| Over 91 pounds and not over 92 pounds..... | 328 | 333 | 337 | 342 | 347 | | | | |
| Over 92 pounds and not over 93 pounds..... | 332 | 336 | 341 | 345 | 350 | | | | |
| Over 93 pounds and not over 94 pounds..... | 335 | 340 | 344 | 349 | 354 | | | | |
| Over 94 pounds and not over 95 pounds..... | 338 | 343 | 348 | 352 | 357 | | | | |
| Over 95 pounds and not over 96 pounds..... | 342 | 346 | 351 | 356 | 361 | | | | |
| Over 96 pounds and not over 97 pounds..... | 345 | 350 | 355 | 359 | 364 | | | | |
| Over 97 pounds and not over 98 pounds..... | 348 | 353 | 358 | 363 | 368 | | | | |
| Over 98 pounds and not over 99 pounds..... | 352 | 357 | 362 | 366 | 371 | | | | |
| Over 99 pounds and not over 100 pounds..... | 355 | 360 | 365 | 370 | 375 | | | | |
| Over 100 pounds, pound rates..... | 355 | 360 | 365 | 370 | 375 | | | | |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 71 | 72 | 73 | 74 | 75 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 27 | 27 | 27 | 27 | 28 |
| Over 2 pounds and not over 3 pounds..... | | 31 | 31 | 31 | 31 | 31 |
| Over 3 pounds and not over 4 pounds..... | | 34 | 35 | 35 | 35 | 35 |
| Over 4 pounds and not over 5 pounds..... | | 38 | 38 | 38 | 39 | 39 |
| Over 5 pounds and not over 6 pounds..... | | 42 | 42 | 42 | 42 | 43 |
| Over 6 pounds and not over 7 pounds..... | | 45 | 46 | 46 | 46 | 47 |
| Over 7 pounds and not over 8 pounds..... | | 49 | 49 | 50 | 50 | 50 |
| Over 8 pounds and not over 9 pounds..... | | 52 | 53 | 53 | 54 | 54 |
| Over 9 pounds and not over 10 pounds..... | | 56 | 56 | 57 | 57 | 58 |
| Over 10 pounds and not over 11 pounds..... | | 60 | 60 | 61 | 61 | 62 |
| Over 11 pounds and not over 12 pounds..... | | 63 | 64 | 64 | 65 | 66 |
| Over 12 pounds and not over 13 pounds..... | | 67 | 67 | 68 | 69 | 69 |
| Over 13 pounds and not over 14 pounds..... | | 70 | 71 | 72 | 72 | 73 |
| Over 14 pounds and not over 15 pounds..... | | 74 | 75 | 75 | 76 | 77 |
| Over 15 pounds and not over 16 pounds..... | | 78 | 78 | 79 | 80 | 81 |
| Over 16 pounds and not over 17 pounds..... | | 81 | 82 | 83 | 84 | 85 |
| Over 17 pounds and not over 18 pounds..... | | 85 | 86 | 87 | 87 | 88 |
| Over 18 pounds and not over 19 pounds..... | | 88 | 89 | 90 | 91 | 92 |
| Over 19 pounds and not over 20 pounds..... | | 92 | 93 | 94 | 95 | 96 |
| Over 20 pounds and not over 21 pounds..... | | 96 | 97 | 98 | 99 | 100 |
| Over 21 pounds and not over 22 pounds..... | | 99 | 100 | 101 | 102 | 104 |
| Over 22 pounds and not over 23 pounds..... | | 103 | 104 | 105 | 106 | 107 |
| Over 23 pounds and not over 24 pounds..... | | 106 | 108 | 109 | 110 | 111 |
| Over 24 pounds and not over 25 pounds..... | | 110 | 111 | 112 | 114 | 115 |
| Over 25 pounds and not over 26 pounds..... | | 114 | 115 | 116 | 117 | 119 |
| Over 26 pounds and not over 27 pounds..... | | 117 | 119 | 120 | 121 | 122 |
| Over 27 pounds and not over 28 pounds..... | | 121 | 122 | 124 | 125 | 126 |
| Over 28 pounds and not over 29 pounds..... | | 124 | 126 | 127 | 129 | 130 |
| Over 29 pounds and not over 30 pounds..... | | 128 | 129 | 131 | 132 | 134 |
| Over 30 pounds and not over 31 pounds..... | | 132 | 133 | 135 | 136 | 138 |
| Over 31 pounds and not over 32 pounds..... | | 135 | 137 | 138 | 140 | 142 |
| Over 32 pounds and not over 33 pounds..... | | 139 | 140 | 142 | 144 | 145 |
| Over 33 pounds and not over 34 pounds..... | | 142 | 144 | 146 | 147 | 149 |
| Over 34 pounds and not over 35 pounds..... | | 146 | 148 | 149 | 151 | 153 |
| Over 35 pounds and not over 36 pounds..... | | 150 | 151 | 153 | 155 | 157 |
| Over 36 pounds and not over 37 pounds..... | | 153 | 155 | 157 | 159 | 161 |
| Over 37 pounds and not over 38 pounds..... | | 157 | 159 | 161 | 162 | 164 |
| Over 38 pounds and not over 39 pounds..... | | 160 | 162 | 164 | 166 | 168 |
| Over 39 pounds and not over 40 pounds..... | | 164 | 166 | 168 | 170 | 172 |
| Over 40 pounds and not over 41 pounds..... | | 168 | 170 | 172 | 174 | 176 |
| Over 41 pounds and not over 42 pounds..... | | 171 | 173 | 175 | 177 | 180 |
| Over 42 pounds and not over 43 pounds..... | | 175 | 177 | 179 | 181 | 183 |
| Over 43 pounds and not over 44 pounds..... | | 178 | 181 | 183 | 185 | 187 |
| Over 44 pounds and not over 45 pounds..... | | 182 | 184 | 186 | 189 | 191 |
| Over 45 pounds and not over 46 pounds..... | | 186 | 188 | 190 | 192 | 195 |
| Over 46 pounds and not over 47 pounds..... | | 189 | 192 | 194 | 196 | 199 |
| Over 47 pounds and not over 48 pounds..... | | 193 | 195 | 198 | 200 | 202 |
| Over 48 pounds and not over 49 pounds..... | | 196 | 199 | 201 | 204 | 206 |
| Over 49 pounds and not over 50 pounds..... | | 200 | 202 | 205 | 207 | 210 |
| Over 50 pounds and not over 51 pounds..... | | 204 | 206 | 209 | 211 | 214 |
| Over 51 pounds and not over 52 pounds..... | | 207 | 210 | 212 | 215 | 218 |
| Over 52 pounds and not over 53 pounds..... | | 211 | 213 | 216 | 219 | 221 |
| Over 53 pounds and not over 54 pounds..... | | 214 | 217 | 220 | 222 | 225 |
| Over 54 pounds and not over 55 pounds..... | | 218 | 221 | 223 | 226 | 229 |
| Over 55 pounds and not over 56 pounds..... | | 222 | 224 | 227 | 230 | 233 |
| Over 56 pounds and not over 57 pounds..... | | 225 | 228 | 231 | 234 | 237 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 71 | 72 | 73 | 74 | 75 |
| Over 57 pounds and not over 58 pounds | ----- | 229 | 232 | 235 | 237 | 239 |
| Over 58 pounds and not over 59 pounds | ----- | 232 | 235 | 238 | 241 | 243 |
| Over 59 pounds and not over 60 pounds | ----- | 236 | 239 | 242 | 245 | 247 |
| Over 60 pounds and not over 61 pounds | ----- | 240 | 243 | 246 | 249 | 251 |
| Over 61 pounds and not over 62 pounds | ----- | 243 | 246 | 249 | 252 | 254 |
| Over 62 pounds and not over 63 pounds | ----- | 247 | 250 | 253 | 256 | 258 |
| Over 63 pounds and not over 64 pounds | ----- | 250 | 254 | 257 | 260 | 262 |
| Over 64 pounds and not over 65 pounds | ----- | 254 | 257 | 260 | 264 | 266 |
| Over 65 pounds and not over 66 pounds | ----- | 258 | 261 | 264 | 267 | 270 |
| Over 66 pounds and not over 67 pounds | ----- | 261 | 265 | 268 | 271 | 273 |
| Over 67 pounds and not over 68 pounds | ----- | 265 | 268 | 272 | 275 | 277 |
| Over 68 pounds and not over 69 pounds | ----- | 268 | 272 | 275 | 279 | 281 |
| Over 69 pounds and not over 70 pounds | ----- | 272 | 275 | 279 | 282 | 284 |
| Over 70 pounds and not over 71 pounds | ----- | 276 | 279 | 283 | 286 | 289 |
| Over 71 pounds and not over 72 pounds | ----- | 279 | 283 | 286 | 290 | 294 |
| Over 72 pounds and not over 73 pounds | ----- | 283 | 286 | 290 | 294 | 297 |
| Over 73 pounds and not over 74 pounds | ----- | 286 | 290 | 294 | 297 | 301 |
| Over 74 pounds and not over 75 pounds | ----- | 290 | 294 | 297 | 301 | 305 |
| Over 75 pounds and not over 76 pounds | ----- | 294 | 297 | 301 | 305 | 309 |
| Over 76 pounds and not over 77 pounds | ----- | 297 | 301 | 305 | 309 | 313 |
| Over 77 pounds and not over 78 pounds | ----- | 301 | 305 | 309 | 312 | 316 |
| Over 78 pounds and not over 79 pounds | ----- | 304 | 308 | 312 | 316 | 320 |
| Over 79 pounds and not over 80 pounds | ----- | 308 | 312 | 316 | 320 | 324 |
| Over 80 pounds and not over 81 pounds | ----- | 312 | 316 | 320 | 324 | 328 |
| Over 81 pounds and not over 82 pounds | ----- | 315 | 319 | 323 | 327 | 332 |
| Over 82 pounds and not over 83 pounds | ----- | 319 | 323 | 327 | 331 | 335 |
| Over 83 pounds and not over 84 pounds | ----- | 322 | 327 | 331 | 335 | 339 |
| Over 84 pounds and not over 85 pounds | ----- | 326 | 330 | 334 | 339 | 343 |
| Over 85 pounds and not over 86 pounds | ----- | 330 | 334 | 338 | 342 | 347 |
| Over 86 pounds and not over 87 pounds | ----- | 333 | 338 | 342 | 346 | 351 |
| Over 87 pounds and not over 88 pounds | ----- | 337 | 341 | 346 | 350 | 354 |
| Over 88 pounds and not over 89 pounds | ----- | 340 | 345 | 349 | 354 | 358 |
| Over 89 pounds and not over 90 pounds | ----- | 344 | 348 | 353 | 357 | 362 |
| Over 90 pounds and not over 91 pounds | ----- | 348 | 352 | 357 | 361 | 366 |
| Over 91 pounds and not over 92 pounds | ----- | 351 | 356 | 360 | 365 | 370 |
| Over 92 pounds and not over 93 pounds | ----- | 355 | 359 | 364 | 369 | 373 |
| Over 93 pounds and not over 94 pounds | ----- | 358 | 363 | 368 | 372 | 377 |
| Over 94 pounds and not over 95 pounds | ----- | 362 | 367 | 371 | 376 | 381 |
| Over 95 pounds and not over 96 pounds | ----- | 366 | 370 | 375 | 380 | 385 |
| Over 96 pounds and not over 97 pounds | ----- | 369 | 374 | 379 | 384 | 389 |
| Over 97 pounds and not over 98 pounds | ----- | 373 | 378 | 383 | 387 | 392 |
| Over 98 pounds and not over 99 pounds | ----- | 376 | 381 | 386 | 391 | 396 |
| Over 99 pounds and not over 100 pounds | ----- | 380 | 385 | 390 | 395 | 400 |
| Over 100 pounds, pound rates | ----- | 380 | 385 | 390 | 395 | 400 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 76 | 77 | 78 | 79 | 80 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 28 | 28 | 28 | 28 | 28 |
| Over 2 pounds and not over 3 pounds..... | | 32 | 32 | 32 | 32 | 32 |
| Over 3 pounds and not over 4 pounds..... | | 35 | 36 | 36 | 36 | 36 |
| Over 4 pounds and not over 5 pounds..... | | 39 | 39 | 40 | 40 | 40 |
| Over 5 pounds and not over 6 pounds..... | | 43 | 43 | 44 | 44 | 44 |
| Over 6 pounds and not over 7 pounds..... | | 47 | 47 | 48 | 48 | 48 |
| Over 7 pounds and not over 8 pounds..... | | 51 | 51 | 52 | 52 | 52 |
| Over 8 pounds and not over 9 pounds..... | | 55 | 55 | 56 | 56 | 56 |
| Over 9 pounds and not over 10 pounds..... | | 58 | 59 | 59 | 60 | 60 |
| Over 10 pounds and not over 11 pounds..... | | 62 | 63 | 63 | 64 | 65 |
| Over 11 pounds and not over 12 pounds..... | | 66 | 67 | 67 | 68 | 69 |
| Over 12 pounds and not over 13 pounds..... | | 70 | 71 | 71 | 72 | 73 |
| Over 13 pounds and not over 14 pounds..... | | 74 | 75 | 75 | 76 | 77 |
| Over 14 pounds and not over 15 pounds..... | | 78 | 78 | 79 | 80 | 81 |
| Over 15 pounds and not over 16 pounds..... | | 82 | 82 | 83 | 84 | 85 |
| Over 16 pounds and not over 17 pounds..... | | 85 | 86 | 87 | 88 | 89 |
| Over 17 pounds and not over 18 pounds..... | | 89 | 90 | 91 | 92 | 93 |
| Over 18 pounds and not over 19 pounds..... | | 93 | 94 | 95 | 96 | 97 |
| Over 19 pounds and not over 20 pounds..... | | 97 | 98 | 99 | 100 | 101 |
| Over 20 pounds and not over 21 pounds..... | | 101 | 102 | 103 | 104 | 105 |
| Over 21 pounds and not over 22 pounds..... | | 105 | 106 | 107 | 108 | 109 |
| Over 22 pounds and not over 23 pounds..... | | 109 | 110 | 111 | 112 | 113 |
| Over 23 pounds and not over 24 pounds..... | | 112 | 114 | 115 | 116 | 117 |
| Over 24 pounds and not over 25 pounds..... | | 116 | 117 | 119 | 120 | 121 |
| Over 25 pounds and not over 26 pounds..... | | 120 | 121 | 123 | 124 | 125 |
| Over 26 pounds and not over 27 pounds..... | | 124 | 125 | 127 | 128 | 129 |
| Over 27 pounds and not over 28 pounds..... | | 128 | 129 | 131 | 132 | 133 |
| Over 28 pounds and not over 29 pounds..... | | 132 | 133 | 135 | 136 | 137 |
| Over 29 pounds and not over 30 pounds..... | | 135 | 137 | 138 | 140 | 141 |
| Over 30 pounds and not over 31 pounds..... | | 139 | 141 | 142 | 144 | 146 |
| Over 31 pounds and not over 32 pounds..... | | 143 | 145 | 146 | 148 | 150 |
| Over 32 pounds and not over 33 pounds..... | | 147 | 149 | 150 | 152 | 154 |
| Over 33 pounds and not over 34 pounds..... | | 151 | 153 | 154 | 156 | 158 |
| Over 34 pounds and not over 35 pounds..... | | 155 | 156 | 158 | 160 | 162 |
| Over 35 pounds and not over 36 pounds..... | | 159 | 160 | 162 | 164 | 166 |
| Over 36 pounds and not over 37 pounds..... | | 162 | 164 | 166 | 168 | 170 |
| Over 37 pounds and not over 38 pounds..... | | 166 | 168 | 170 | 172 | 174 |
| Over 38 pounds and not over 39 pounds..... | | 170 | 172 | 174 | 176 | 178 |
| Over 39 pounds and not over 40 pounds..... | | 174 | 176 | 178 | 180 | 182 |
| Over 40 pounds and not over 41 pounds..... | | 178 | 180 | 182 | 184 | 186 |
| Over 41 pounds and not over 42 pounds..... | | 182 | 184 | 186 | 188 | 190 |
| Over 42 pounds and not over 43 pounds..... | | 186 | 188 | 190 | 192 | 194 |
| Over 43 pounds and not over 44 pounds..... | | 189 | 192 | 194 | 196 | 198 |
| Over 44 pounds and not over 45 pounds..... | | 193 | 195 | 198 | 200 | 202 |
| Over 45 pounds and not over 46 pounds..... | | 197 | 199 | 202 | 204 | 206 |
| Over 46 pounds and not over 47 pounds..... | | 201 | 203 | 206 | 208 | 210 |
| Over 47 pounds and not over 48 pounds..... | | 205 | 207 | 210 | 212 | 214 |
| Over 48 pounds and not over 49 pounds..... | | 209 | 211 | 214 | 216 | 218 |
| Over 49 pounds and not over 50 pounds..... | | 212 | 215 | 217 | 220 | 222 |
| Over 50 pounds and not over 51 pounds..... | | 216 | 219 | 221 | 224 | 227 |
| Over 51 pounds and not over 52 pounds..... | | 220 | 223 | 225 | 228 | 231 |
| Over 52 pounds and not over 53 pounds..... | | 224 | 227 | 229 | 232 | 235 |
| Over 53 pounds and not over 54 pounds..... | | 228 | 231 | 233 | 236 | 239 |
| Over 54 pounds and not over 55 pounds..... | | 232 | 234 | 237 | 240 | 243 |
| Over 55 pounds and not over 56 pounds..... | | 236 | 238 | 241 | 244 | 247 |
| Over 56 pounds and not over 57 pounds..... | | 239 | 242 | 245 | 248 | 251 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|--|-------------------------------|-----|-----|-----|-----|
| | | 76 | 77 | 78 | 79 | 80 |
| Over 57 pounds and not over 58 pounds..... | | 243 | 246 | 249 | 252 | 255 |
| Over 58 pounds and not over 59 pounds..... | | 247 | 250 | 253 | 256 | 259 |
| Over 59 pounds and not over 60 pounds..... | | 251 | 254 | 257 | 260 | 263 |
| Over 60 pounds and not over 61 pounds..... | | 255 | 258 | 261 | 264 | 267 |
| Over 61 pounds and not over 62 pounds..... | | 259 | 262 | 265 | 268 | 271 |
| Over 62 pounds and not over 63 pounds..... | | 263 | 266 | 269 | 272 | 275 |
| Over 63 pounds and not over 64 pounds..... | | 266 | 270 | 273 | 276 | 279 |
| Over 64 pounds and not over 65 pounds..... | | 270 | 273 | 277 | 280 | 283 |
| Over 65 pounds and not over 66 pounds..... | | 274 | 277 | 281 | 284 | 287 |
| Over 66 pounds and not over 67 pounds..... | | 278 | 281 | 285 | 288 | 291 |
| Over 67 pounds and not over 68 pounds..... | | 282 | 285 | 289 | 292 | 295 |
| Over 68 pounds and not over 69 pounds..... | | 286 | 289 | 293 | 296 | 299 |
| Over 69 pounds and not over 70 pounds..... | | 289 | 293 | 296 | 300 | 303 |
| Over 70 pounds and not over 71 pounds..... | | 293 | 297 | 300 | 304 | 308 |
| Over 71 pounds and not over 72 pounds..... | | 297 | 301 | 304 | 308 | 312 |
| Over 72 pounds and not over 73 pounds..... | | 301 | 305 | 308 | 312 | 316 |
| Over 73 pounds and not over 74 pounds..... | | 305 | 309 | 312 | 316 | 320 |
| Over 74 pounds and not over 75 pounds..... | | 309 | 312 | 316 | 320 | 324 |
| Over 75 pounds and not over 76 pounds..... | | 313 | 316 | 320 | 324 | 328 |
| Over 76 pounds and not over 77 pounds..... | | 316 | 320 | 324 | 328 | 332 |
| Over 77 pounds and not over 78 pounds..... | | 320 | 324 | 328 | 332 | 336 |
| Over 78 pounds and not over 79 pounds..... | | 324 | 328 | 332 | 336 | 340 |
| Over 79 pounds and not over 80 pounds..... | | 328 | 332 | 336 | 340 | 344 |
| Over 80 pounds and not over 81 pounds..... | | 332 | 336 | 340 | 344 | 348 |
| Over 81 pounds and not over 82 pounds..... | | 336 | 340 | 344 | 348 | 352 |
| Over 82 pounds and not over 83 pounds..... | | 340 | 344 | 348 | 352 | 356 |
| Over 83 pounds and not over 84 pounds..... | | 343 | 348 | 352 | 356 | 360 |
| Over 84 pounds and not over 85 pounds..... | | 347 | 351 | 356 | 360 | 364 |
| Over 85 pounds and not over 86 pounds..... | | 351 | 355 | 360 | 364 | 368 |
| Over 86 pounds and not over 87 pounds..... | | 355 | 359 | 364 | 368 | 372 |
| Over 87 pounds and not over 88 pounds..... | | 359 | 363 | 368 | 372 | 376 |
| Over 88 pounds and not over 89 pounds..... | | 363 | 367 | 372 | 376 | 380 |
| Over 89 pounds and not over 90 pounds..... | | 366 | 371 | 375 | 380 | 384 |
| Over 90 pounds and not over 91 pounds..... | | 370 | 375 | 379 | 384 | 389 |
| Over 91 pounds and not over 92 pounds..... | | 374 | 379 | 383 | 388 | 393 |
| Over 92 pounds and not over 93 pounds..... | | 378 | 383 | 387 | 392 | 397 |
| Over 93 pounds and not over 94 pounds..... | | 382 | 387 | 391 | 396 | 401 |
| Over 94 pounds and not over 95 pounds..... | | 386 | 390 | 395 | 400 | 405 |
| Over 95 pounds and not over 96 pounds..... | | 390 | 394 | 399 | 404 | 409 |
| Over 96 pounds and not over 97 pounds..... | | 393 | 398 | 403 | 408 | 413 |
| Over 97 pounds and not over 98 pounds..... | | 397 | 402 | 407 | 412 | 417 |
| Over 98 pounds and not over 99 pounds..... | | 401 | 406 | 411 | 416 | 421 |
| Over 99 pounds and not over 100 pounds..... | | 405 | 410 | 415 | 420 | 425 |
| Over 100 pounds, pound rates..... | | 405 | 410 | 415 | 420 | 425 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|-----|
| | | 81 | 82 | 83 | 84 | 85 | 86 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 28 | 28 | 28 | 28 | 29 | 29 |
| Over 2 pounds and not over 3 pounds..... | | 32 | 32 | 33 | 33 | 33 | 33 |
| Over 3 pounds and not over 4 pounds..... | | 36 | 37 | 37 | 37 | 37 | 37 |
| Over 4 pounds and not over 5 pounds..... | | 40 | 41 | 41 | 41 | 41 | 42 |
| Over 5 pounds and not over 6 pounds..... | | 45 | 45 | 45 | 45 | 46 | 46 |
| Over 6 pounds and not over 7 pounds..... | | 49 | 49 | 49 | 50 | 50 | 50 |
| Over 7 pounds and not over 8 pounds..... | | 53 | 53 | 54 | 54 | 54 | 55 |
| Over 8 pounds and not over 9 pounds..... | | 57 | 57 | 58 | 58 | 59 | 59 |
| Over 9 pounds and not over 10 pounds..... | | 61 | 61 | 62 | 62 | 63 | 63 |
| Over 10 pounds and not over 11 pounds..... | | 65 | 66 | 66 | 67 | 67 | 68 |
| Over 11 pounds and not over 12 pounds..... | | 69 | 70 | 70 | 71 | 72 | 72 |
| Over 12 pounds and not over 13 pounds..... | | 73 | 74 | 75 | 75 | 76 | 77 |
| Over 13 pounds and not over 14 pounds..... | | 77 | 78 | 79 | 79 | 80 | 81 |
| Over 14 pounds and not over 15 pounds..... | | 81 | 82 | 83 | 84 | 84 | 85 |
| Over 15 pounds and not over 16 pounds..... | | 86 | 86 | 87 | 88 | 89 | 90 |
| Over 16 pounds and not over 17 pounds..... | | 90 | 91 | 91 | 92 | 93 | 94 |
| Over 17 pounds and not over 18 pounds..... | | 94 | 95 | 96 | 96 | 97 | 98 |
| Over 18 pounds and not over 19 pounds..... | | 98 | 99 | 100 | 101 | 102 | 103 |
| Over 19 pounds and not over 20 pounds..... | | 102 | 103 | 104 | 105 | 106 | 107 |
| Over 20 pounds and not over 21 pounds..... | | 106 | 107 | 108 | 109 | 110 | 111 |
| Over 21 pounds and not over 22 pounds..... | | 110 | 111 | 112 | 113 | 115 | 116 |
| Over 22 pounds and not over 23 pounds..... | | 114 | 115 | 117 | 118 | 119 | 120 |
| Over 23 pounds and not over 24 pounds..... | | 118 | 120 | 121 | 122 | 123 | 124 |
| Over 24 pounds and not over 25 pounds..... | | 122 | 124 | 125 | 126 | 127 | 129 |
| Over 25 pounds and not over 26 pounds..... | | 127 | 128 | 129 | 130 | 132 | 133 |
| Over 26 pounds and not over 27 pounds..... | | 131 | 132 | 133 | 135 | 136 | 137 |
| Over 27 pounds and not over 28 pounds..... | | 135 | 136 | 138 | 139 | 140 | 142 |
| Over 28 pounds and not over 29 pounds..... | | 139 | 140 | 142 | 143 | 145 | 146 |
| Over 29 pounds and not over 30 pounds..... | | 143 | 144 | 146 | 147 | 149 | 150 |
| Over 30 pounds and not over 31 pounds..... | | 147 | 149 | 150 | 152 | 153 | 155 |
| Over 31 pounds and not over 32 pounds..... | | 151 | 153 | 154 | 156 | 158 | 159 |
| Over 32 pounds and not over 33 pounds..... | | 155 | 157 | 159 | 160 | 162 | 164 |
| Over 33 pounds and not over 34 pounds..... | | 159 | 161 | 163 | 164 | 166 | 168 |
| Over 34 pounds and not over 35 pounds..... | | 163 | 165 | 167 | 169 | 170 | 172 |
| Over 35 pounds and not over 36 pounds..... | | 168 | 169 | 171 | 173 | 175 | 177 |
| Over 36 pounds and not over 37 pounds..... | | 172 | 174 | 175 | 177 | 179 | 181 |
| Over 37 pounds and not over 38 pounds..... | | 176 | 178 | 180 | 181 | 183 | 185 |
| Over 38 pounds and not over 39 pounds..... | | 180 | 182 | 184 | 186 | 188 | 190 |
| Over 39 pounds and not over 40 pounds..... | | 184 | 186 | 188 | 190 | 192 | 194 |
| Over 40 pounds and not over 41 pounds..... | | 188 | 190 | 192 | 194 | 196 | 198 |
| Over 41 pounds and not over 42 pounds..... | | 192 | 194 | 196 | 198 | 201 | 203 |
| Over 42 pounds and not over 43 pounds..... | | 196 | 198 | 201 | 203 | 205 | 207 |
| Over 43 pounds and not over 44 pounds..... | | 200 | 203 | 205 | 207 | 209 | 211 |
| Over 44 pounds and not over 45 pounds..... | | 204 | 207 | 209 | 211 | 213 | 216 |
| Over 45 pounds and not over 46 pounds..... | | 209 | 211 | 213 | 215 | 218 | 220 |
| Over 46 pounds and not over 47 pounds..... | | 213 | 215 | 217 | 220 | 222 | 224 |
| Over 47 pounds and not over 48 pounds..... | | 217 | 219 | 222 | 224 | 226 | 229 |
| Over 48 pounds and not over 49 pounds..... | | 221 | 223 | 226 | 228 | 231 | 233 |
| Over 49 pounds and not over 50 pounds..... | | 225 | 227 | 230 | 232 | 235 | 237 |
| Over 50 pounds and not over 51 pounds..... | | 229 | 232 | 234 | 237 | 239 | 242 |
| Over 51 pounds and not over 52 pounds..... | | 233 | 236 | 238 | 241 | 244 | 246 |
| Over 52 pounds and not over 53 pounds..... | | 237 | 240 | 243 | 245 | 248 | 251 |
| Over 53 pounds and not over 54 pounds..... | | 241 | 244 | 247 | 249 | 252 | 255 |
| Over 54 pounds and not over 55 pounds..... | | 245 | 248 | 251 | 254 | 256 | 259 |
| Over 55 pounds and not over 56 pounds..... | | 250 | 252 | 255 | 258 | 261 | 264 |
| Over 56 pounds and not over 57 pounds..... | | 254 | 257 | 259 | 262 | 265 | 268 |

Wells Fargo & Company Express—Continued.

Charges are in cents

| | | Merchandise rate table number | | | | | |
|---|-----|-------------------------------|-----|-----|-----|----|----|
| | | 81 | 82 | 83 | 84 | 85 | 86 |
| Over 57 pounds and not over 58 pounds..... | 258 | 261 | 264 | 266 | 269 | 27 | |
| Over 58 pounds and not over 59 pounds..... | 262 | 265 | 268 | 271 | 274 | 27 | |
| Over 59 pounds and not over 60 pounds..... | 266 | 269 | 272 | 275 | 278 | 28 | |
| Over 60 pounds and not over 61 pounds..... | 270 | 273 | 276 | 279 | 282 | 28 | |
| Over 61 pounds and not over 62 pounds..... | 274 | 277 | 280 | 283 | 287 | 29 | |
| Over 62 pounds and not over 63 pounds..... | 278 | 281 | 285 | 288 | 291 | 29 | |
| Over 63 pounds and not over 64 pounds..... | 282 | 286 | 289 | 292 | 295 | 29 | |
| Over 64 pounds and not over 65 pounds..... | 286 | 290 | 293 | 296 | 299 | 30 | |
| Over 65 pounds and not over 66 pounds..... | 291 | 294 | 297 | 300 | 304 | 30 | |
| Over 66 pounds and not over 67 pounds..... | 295 | 298 | 301 | 305 | 308 | 31 | |
| Over 67 pounds and not over 68 pounds..... | 299 | 302 | 306 | 309 | 312 | 31 | |
| Over 68 pounds and not over 69 pounds..... | 303 | 306 | 310 | 313 | 317 | 32 | |
| Over 69 pounds and not over 70 pounds..... | 307 | 310 | 314 | 317 | 321 | 32 | |
| Over 70 pounds and not over 71 pounds..... | 311 | 315 | 318 | 322 | 325 | 32 | |
| Over 71 pounds and not over 72 pounds..... | 315 | 319 | 322 | 326 | 330 | 33 | |
| Over 72 pounds and not over 73 pounds..... | 319 | 323 | 327 | 330 | 334 | 33 | |
| Over 73 pounds and not over 74 pounds..... | 323 | 327 | 331 | 334 | 338 | 34 | |
| Over 74 pounds and not over 75 pounds..... | 327 | 331 | 335 | 339 | 342 | 34 | |
| Over 75 pounds and not over 76 pounds..... | 332 | 335 | 339 | 343 | 347 | 35 | |
| Over 76 pounds and not over 77 pounds..... | 336 | 340 | 343 | 347 | 351 | 35 | |
| Over 77 pounds and not over 78 pounds..... | 340 | 344 | 348 | 351 | 355 | 35 | |
| Over 78 pounds and not over 79 pounds..... | 344 | 348 | 352 | 356 | 360 | 36 | |
| Over 79 pounds and not over 80 pounds..... | 348 | 352 | 356 | 360 | 364 | 36 | |
| Over 80 pounds and not over 81 pounds..... | 352 | 356 | 360 | 364 | 368 | 37 | |
| Over 81 pounds and not over 82 pounds..... | 356 | 360 | 364 | 368 | 373 | 37 | |
| Over 82 pounds and not over 83 pounds..... | 360 | 364 | 369 | 373 | 377 | 38 | |
| Over 83 pounds and not over 84 pounds..... | 364 | 369 | 373 | 377 | 381 | 38 | |
| Over 84 pounds and not over 85 pounds..... | 368 | 373 | 377 | 381 | 385 | 39 | |
| Over 85 pounds and not over 86 pounds..... | 373 | 377 | 381 | 385 | 390 | 39 | |
| Over 86 pounds and not over 87 pounds..... | 377 | 381 | 385 | 390 | 394 | 39 | |
| Over 87 pounds and not over 88 pounds..... | 381 | 385 | 390 | 394 | 398 | 40 | |
| Over 88 pounds and not over 89 pounds..... | 385 | 389 | 394 | 398 | 403 | 40 | |
| Over 89 pounds and not over 90 pounds..... | 389 | 393 | 398 | 402 | 407 | 41 | |
| Over 90 pounds and not over 91 pounds..... | 393 | 398 | 402 | 407 | 411 | 41 | |
| Over 91 pounds and not over 92 pounds..... | 397 | 402 | 406 | 411 | 416 | 42 | |
| Over 92 pounds and not over 93 pounds..... | 401 | 406 | 411 | 415 | 420 | 42 | |
| Over 93 pounds and not over 94 pounds..... | 405 | 410 | 415 | 419 | 424 | 42 | |
| Over 94 pounds and not over 95 pounds..... | 409 | 414 | 419 | 424 | 428 | 43 | |
| Over 95 pounds and not over 96 pounds..... | 414 | 418 | 423 | 428 | 433 | 43 | |
| Over 96 pounds and not over 97 pounds..... | 418 | 423 | 427 | 432 | 437 | 44 | |
| Over 97 pounds and not over 98 pounds..... | 422 | 427 | 432 | 436 | 441 | 44 | |
| Over 98 pounds and not over 99 pounds..... | 426 | 431 | 436 | 441 | 446 | 45 | |
| Over 99 pounds and not over 100 pounds..... | 430 | 435 | 440 | 445 | 450 | 45 | |
| Over 100 pounds, pound rates..... | 430 | 435 | 440 | 445 | 450 | 45 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | |
|--|--|----------------------------------|-----|-----|-----|
| | | 87 | 88 | 89 | 90 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 29 | 29 | 29 | 29 |
| Over 2 pounds and not over 3 pounds..... | | 33 | 33 | 33 | 34 |
| Over 3 pounds and not over 4 pounds..... | | 38 | 38 | 38 | 38 |
| Over 4 pounds and not over 5 pounds..... | | 42 | 42 | 42 | 43 |
| Over 5 pounds and not over 6 pounds..... | | 46 | 47 | 47 | 47 |
| Over 6 pounds and not over 7 pounds..... | | 51 | 51 | 51 | 52 |
| Over 7 pounds and not over 8 pounds..... | | 55 | 56 | 56 | 56 |
| Over 8 pounds and not over 9 pounds..... | | 60 | 60 | 60 | 61 |
| Over 9 pounds and not over 10 pounds..... | | 64 | 64 | 65 | 65 |
| Over 10 pounds and not over 11 pounds..... | | 68 | 69 | 69 | 70 |
| Over 11 pounds and not over 12 pounds..... | | 73 | 73 | 74 | 75 |
| Over 12 pounds and not over 13 pounds..... | | 77 | 78 | 78 | 79 |
| Over 13 pounds and not over 14 pounds..... | | 82 | 82 | 83 | 84 |
| Over 14 pounds and not over 15 pounds..... | | 86 | 87 | 87 | 88 |
| Over 15 pounds and not over 16 pounds..... | | 90 | 91 | 92 | 93 |
| Over 16 pounds and not over 17 pounds..... | | 95 | 96 | 96 | 97 |
| Over 17 pounds and not over 18 pounds..... | | 99 | 100 | 101 | 102 |
| Over 18 pounds and not over 19 pounds..... | | 104 | 105 | 105 | 106 |
| Over 19 pounds and not over 20 pounds..... | | 108 | 109 | 110 | 111 |
| Over 20 pounds and not over 21 pounds..... | | 112 | 113 | 114 | 116 |
| Over 21 pounds and not over 22 pounds..... | | 117 | 118 | 119 | 120 |
| Over 22 pounds and not over 23 pounds..... | | 121 | 122 | 123 | 125 |
| Over 23 pounds and not over 24 pounds..... | | 126 | 127 | 128 | 129 |
| Over 24 pounds and not over 25 pounds..... | | 130 | 131 | 132 | 134 |
| Over 25 pounds and not over 26 pounds..... | | 134 | 136 | 137 | 138 |
| Over 26 pounds and not over 27 pounds..... | | 139 | 140 | 141 | 143 |
| Over 27 pounds and not over 28 pounds..... | | 143 | 145 | 146 | 147 |
| Over 28 pounds and not over 29 pounds..... | | 148 | 149 | 150 | 152 |
| Over 29 pounds and not over 30 pounds..... | | 152 | 153 | 155 | 156 |
| Over 30 pounds and not over 31 pounds..... | | 156 | 158 | 159 | 161 |
| Over 31 pounds and not over 32 pounds..... | | 161 | 162 | 164 | 166 |
| Over 32 pounds and not over 33 pounds..... | | 165 | 167 | 168 | 170 |
| Over 33 pounds and not over 34 pounds..... | | 170 | 171 | 173 | 175 |
| Over 34 pounds and not over 35 pounds..... | | 174 | 176 | 177 | 179 |
| Over 35 pounds and not over 36 pounds..... | | 178 | 180 | 182 | 184 |
| Over 36 pounds and not over 37 pounds..... | | 183 | 185 | 186 | 188 |
| Over 37 pounds and not over 38 pounds..... | | 187 | 189 | 191 | 193 |
| Over 38 pounds and not over 39 pounds..... | | 192 | 194 | 195 | 197 |
| Over 39 pounds and not over 40 pounds..... | | 196 | 198 | 200 | 202 |
| Over 40 pounds and not over 41 pounds..... | | 200 | 202 | 204 | 207 |
| Over 41 pounds and not over 42 pounds..... | | 205 | 207 | 209 | 211 |
| Over 42 pounds and not over 43 pounds..... | | 209 | 211 | 213 | 216 |
| Over 43 pounds and not over 44 pounds..... | | 214 | 216 | 218 | 220 |
| Over 44 pounds and not over 45 pounds..... | | 218 | 220 | 222 | 225 |
| Over 45 pounds and not over 46 pounds..... | | 222 | 225 | 227 | 229 |
| Over 46 pounds and not over 47 pounds..... | | 227 | 229 | 231 | 234 |
| Over 47 pounds and not over 48 pounds..... | | 231 | 234 | 236 | 238 |
| Over 48 pounds and not over 49 pounds..... | | 236 | 238 | 240 | 243 |
| Over 49 pounds and not over 50 pounds..... | | 240 | 242 | 245 | 247 |
| Over 50 pounds and not over 51 pounds..... | | 244 | 247 | 249 | 252 |
| Over 51 pounds and not over 52 pounds..... | | 249 | 251 | 254 | 257 |
| Over 52 pounds and not over 53 pounds..... | | 253 | 256 | 258 | 261 |
| Over 53 pounds and not over 54 pounds..... | | 258 | 260 | 263 | 266 |
| Over 54 pounds and not over 55 pounds..... | | 262 | 265 | 267 | 270 |
| Over 55 pounds and not over 56 pounds..... | | 266 | 269 | 272 | 275 |
| Over 56 pounds and not over 57 pounds..... | | 271 | 274 | 276 | 279 |

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Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | |
|--|-------|----------------------------------|-----|-----|-----|
| | | 87 | 88 | 89 | 90 |
| Over 57 pounds and not over 58 pounds | ----- | 275 | 278 | 281 | 284 |
| Over 58 pounds and not over 59 pounds | ----- | 280 | 283 | 285 | 288 |
| Over 59 pounds and not over 60 pounds | ----- | 284 | 287 | 290 | 293 |
| Over 60 pounds and not over 61 pounds | ----- | 288 | 291 | 294 | 298 |
| Over 61 pounds and not over 62 pounds | ----- | 293 | 296 | 299 | 302 |
| Over 62 pounds and not over 63 pounds | ----- | 297 | 300 | 303 | 307 |
| Over 63 pounds and not over 64 pounds | ----- | 302 | 305 | 308 | 311 |
| Over 64 pounds and not over 65 pounds | ----- | 306 | 309 | 312 | 316 |
| Over 65 pounds and not over 66 pounds | ----- | 310 | 314 | 317 | 320 |
| Over 66 pounds and not over 67 pounds | ----- | 315 | 318 | 321 | 325 |
| Over 67 pounds and not over 68 pounds | ----- | 319 | 323 | 326 | 329 |
| Over 68 pounds and not over 69 pounds | ----- | 324 | 327 | 330 | 334 |
| Over 69 pounds and not over 70 pounds | ----- | 328 | 331 | 335 | 338 |
| Over 70 pounds and not over 71 pounds | ----- | 332 | 336 | 339 | 343 |
| Over 71 pounds and not over 72 pounds | ----- | 337 | 340 | 344 | 348 |
| Over 72 pounds and not over 73 pounds | ----- | 341 | 345 | 348 | 352 |
| Over 73 pounds and not over 74 pounds | ----- | 346 | 349 | 353 | 357 |
| Over 74 pounds and not over 75 pounds | ----- | 350 | 354 | 357 | 361 |
| Over 75 pounds and not over 76 pounds | ----- | 354 | 358 | 362 | 366 |
| Over 76 pounds and not over 77 pounds | ----- | 359 | 363 | 366 | 370 |
| Over 77 pounds and not over 78 pounds | ----- | 363 | 367 | 371 | 375 |
| Over 78 pounds and not over 79 pounds | ----- | 368 | 372 | 375 | 379 |
| Over 79 pounds and not over 80 pounds | ----- | 372 | 376 | 380 | 384 |
| Over 80 pounds and not over 81 pounds | ----- | 376 | 380 | 384 | 389 |
| Over 81 pounds and not over 82 pounds | ----- | 381 | 385 | 389 | 393 |
| Over 82 pounds and not over 83 pounds | ----- | 385 | 389 | 393 | 398 |
| Over 83 pounds and not over 84 pounds | ----- | 390 | 394 | 398 | 402 |
| Over 84 pounds and not over 85 pounds | ----- | 394 | 398 | 402 | 407 |
| Over 85 pounds and not over 86 pounds | ----- | 398 | 403 | 407 | 411 |
| Over 86 pounds and not over 87 pounds | ----- | 403 | 407 | 411 | 416 |
| Over 87 pounds and not over 88 pounds | ----- | 407 | 412 | 416 | 420 |
| Over 88 pounds and not over 89 pounds | ----- | 412 | 416 | 420 | 425 |
| Over 89 pounds and not over 90 pounds | ----- | 416 | 420 | 425 | 429 |
| Over 90 pounds and not over 91 pounds | ----- | 420 | 425 | 429 | 434 |
| Over 91 pounds and not over 92 pounds | ----- | 425 | 429 | 434 | 439 |
| Over 92 pounds and not over 93 pounds | ----- | 429 | 434 | 438 | 443 |
| Over 93 pounds and not over 94 pounds | ----- | 434 | 438 | 443 | 448 |
| Over 94 pounds and not over 95 pounds | ----- | 438 | 443 | 447 | 452 |
| Over 95 pounds and not over 96 pounds | ----- | 442 | 447 | 452 | 457 |
| Over 96 pounds and not over 97 pounds | ----- | 447 | 452 | 456 | 461 |
| Over 97 pounds and not over 98 pounds | ----- | 451 | 456 | 461 | 466 |
| Over 98 pounds and not over 99 pounds | ----- | 456 | 461 | 465 | 470 |
| Over 99 pounds and not over 100 pounds | ----- | 460 | 465 | 470 | 475 |
| Over 100 pounds, pound rates | ----- | 460 | 465 | 470 | 475 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | |
|--|--|----------------------------------|-----|-----|
| | | 91 | 92 | 93 |
| Not over 1 pound..... | | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 29 | 29 | 29 |
| Over 2 pounds and not over 3 pounds..... | | 34 | 34 | 34 |
| Over 3 pounds and not over 4 pounds..... | | 38 | 39 | 39 |
| Over 4 pounds and not over 5 pounds..... | | 43 | 43 | 43 |
| Over 5 pounds and not over 6 pounds..... | | 48 | 48 | 48 |
| Over 6 pounds and not over 7 pounds..... | | 52 | 53 | 53 |
| Over 7 pounds and not over 8 pounds..... | | 57 | 57 | 58 |
| Over 8 pounds and not over 9 pounds..... | | 61 | 62 | 62 |
| Over 9 pounds and not over 10 pounds..... | | 66 | 66 | 67 |
| Over 10 pounds and not over 11 pounds..... | | 71 | 71 | 72 |
| Over 11 pounds and not over 12 pounds..... | | 75 | 76 | 76 |
| Over 12 pounds and not over 13 pounds..... | | 80 | 80 | 81 |
| Over 13 pounds and not over 14 pounds..... | | 84 | 85 | 86 |
| Over 14 pounds and not over 15 pounds..... | | 89 | 90 | 90 |
| Over 15 pounds and not over 16 pounds..... | | 94 | 94 | 95 |
| Over 16 pounds and not over 17 pounds..... | | 98 | 99 | 100 |
| Over 17 pounds and not over 18 pounds..... | | 103 | 104 | 105 |
| Over 18 pounds and not over 19 pounds..... | | 107 | 108 | 109 |
| Over 19 pounds and not over 20 pounds..... | | 112 | 113 | 114 |
| Over 20 pounds and not over 21 pounds..... | | 117 | 118 | 119 |
| Over 21 pounds and not over 22 pounds..... | | 121 | 122 | 123 |
| Over 22 pounds and not over 23 pounds..... | | 126 | 127 | 128 |
| Over 23 pounds and not over 24 pounds..... | | 130 | 132 | 133 |
| Over 24 pounds and not over 25 pounds..... | | 135 | 136 | 137 |
| Over 25 pounds and not over 26 pounds..... | | 140 | 141 | 142 |
| Over 26 pounds and not over 27 pounds..... | | 144 | 146 | 147 |
| Over 27 pounds and not over 28 pounds..... | | 149 | 150 | 152 |
| Over 28 pounds and not over 29 pounds..... | | 153 | 155 | 156 |
| Over 29 pounds and not over 30 pounds..... | | 158 | 159 | 161 |
| Over 30 pounds and not over 31 pounds..... | | 163 | 164 | 166 |
| Over 31 pounds and not over 32 pounds..... | | 167 | 169 | 170 |
| Over 32 pounds and not over 33 pounds..... | | 172 | 173 | 175 |
| Over 33 pounds and not over 34 pounds..... | | 176 | 178 | 180 |
| Over 34 pounds and not over 35 pounds..... | | 181 | 183 | 184 |
| Over 35 pounds and not over 36 pounds..... | | 186 | 187 | 189 |
| Over 36 pounds and not over 37 pounds..... | | 190 | 192 | 194 |
| Over 37 pounds and not over 38 pounds..... | | 195 | 197 | 199 |
| Over 38 pounds and not over 39 pounds..... | | 199 | 201 | 203 |
| Over 39 pounds and not over 40 pounds..... | | 204 | 206 | 208 |
| Over 40 pounds and not over 41 pounds..... | | 209 | 211 | 213 |
| Over 41 pounds and not over 42 pounds..... | | 213 | 215 | 217 |
| Over 42 pounds and not over 43 pounds..... | | 218 | 220 | 222 |
| Over 43 pounds and not over 44 pounds..... | | 222 | 225 | 227 |
| Over 44 pounds and not over 45 pounds..... | | 227 | 229 | 231 |
| Over 45 pounds and not over 46 pounds..... | | 232 | 234 | 236 |
| Over 46 pounds and not over 47 pounds..... | | 236 | 239 | 241 |
| Over 47 pounds and not over 48 pounds..... | | 241 | 243 | 246 |
| Over 48 pounds and not over 49 pounds..... | | 245 | 248 | 250 |
| Over 49 pounds and not over 50 pounds..... | | 250 | 252 | 255 |
| Over 50 pounds and not over 51 pounds..... | | 255 | 257 | 260 |
| Over 51 pounds and not over 52 pounds..... | | 259 | 262 | 264 |
| Over 52 pounds and not over 53 pounds..... | | 264 | 266 | 269 |
| Over 53 pounds and not over 54 pounds..... | | 268 | 271 | 274 |
| Over 54 pounds and not over 55 pounds..... | | 273 | 276 | 278 |
| Over 55 pounds and not over 56 pounds..... | | 278 | 280 | 283 |
| Over 56 pounds and not over 57 pounds..... | | 282 | 285 | 288 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | |
|--|-----|----------------------------------|-----|----|
| | | 91 | 92 | 93 |
| Over 57 pounds and not over 58 pounds | 287 | 290 | 293 | |
| Over 58 pounds and not over 59 pounds | 291 | 294 | 297 | |
| Over 59 pounds and not over 60 pounds | 296 | 299 | 302 | |
| Over 60 pounds and not over 61 pounds | 301 | 304 | 307 | |
| Over 61 pounds and not over 62 pounds | 305 | 308 | 311 | |
| Over 62 pounds and not over 63 pounds | 310 | 313 | 316 | |
| Over 63 pounds and not over 64 pounds | 314 | 318 | 321 | |
| Over 64 pounds and not over 65 pounds | 319 | 322 | 325 | |
| Over 65 pounds and not over 66 pounds | 324 | 327 | 330 | |
| Over 66 pounds and not over 67 pounds | 328 | 332 | 335 | |
| Over 67 pounds and not over 68 pounds | 333 | 336 | 340 | |
| Over 68 pounds and not over 69 pounds | 337 | 341 | 344 | |
| Over 69 pounds and not over 70 pounds | 342 | 345 | 349 | |
| Over 70 pounds and not over 71 pounds | 347 | 350 | 354 | |
| Over 71 pounds and not over 72 pounds | 351 | 355 | 358 | |
| Over 72 pounds and not over 73 pounds | 356 | 359 | 363 | |
| Over 73 pounds and not over 74 pounds | 360 | 364 | 368 | |
| Over 74 pounds and not over 75 pounds | 365 | 369 | 372 | |
| Over 75 pounds and not over 76 pounds | 370 | 373 | 377 | |
| Over 76 pounds and not over 77 pounds | 374 | 378 | 382 | |
| Over 77 pounds and not over 78 pounds | 379 | 383 | 387 | |
| Over 78 pounds and not over 79 pounds | 383 | 387 | 391 | |
| Over 79 pounds and not over 80 pounds | 388 | 392 | 396 | |
| Over 80 pounds and not over 81 pounds | 393 | 397 | 401 | |
| Over 81 pounds and not over 82 pounds | 397 | 401 | 405 | |
| Over 82 pounds and not over 83 pounds | 402 | 406 | 410 | |
| Over 83 pounds and not over 84 pounds | 406 | 411 | 415 | |
| Over 84 pounds and not over 85 pounds | 411 | 415 | 419 | |
| Over 85 pounds and not over 86 pounds | 416 | 420 | 424 | |
| Over 86 pounds and not over 87 pounds | 420 | 425 | 429 | |
| Over 87 pounds and not over 88 pounds | 425 | 429 | 434 | |
| Over 88 pounds and not over 89 pounds | 429 | 434 | 438 | |
| Over 89 pounds and not over 90 pounds | 434 | 438 | 443 | |
| Over 90 pounds and not over 91 pounds | 439 | 443 | 448 | |
| Over 91 pounds and not over 92 pounds | 443 | 448 | 452 | |
| Over 92 pounds and not over 93 pounds | 448 | 452 | 457 | |
| Over 93 pounds and not over 94 pounds | 452 | 457 | 462 | |
| Over 94 pounds and not over 95 pounds | 457 | 462 | 466 | |
| Over 95 pounds and not over 96 pounds | 462 | 466 | 471 | |
| Over 96 pounds and not over 97 pounds | 466 | 471 | 476 | |
| Over 97 pounds and not over 98 pounds | 471 | 476 | 481 | |
| Over 98 pounds and not over 99 pounds | 475 | 480 | 485 | |
| Over 99 pounds and not over 100 pounds | 480 | 485 | 490 | |
| Over 100 pounds, pound rates | 480 | 485 | 490 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 94 | 95 | 96 | 97 | 98 |
| Not over 1 pound..... | | 25 | 25 | 25 | 25 | 25 |
| Over 1 pound and not over 2 pounds..... | | 29 | 30 | 30 | 30 | 30 |
| Over 2 pounds and not over 3 pounds..... | | 34 | 34 | 35 | 35 | 35 |
| Over 3 pounds and not over 4 pounds..... | | 39 | 39 | 39 | 40 | 40 |
| Over 4 pounds and not over 5 pounds..... | | 44 | 44 | 44 | 44 | 45 |
| Over 5 pounds and not over 6 pounds..... | | 48 | 49 | 49 | 49 | 50 |
| Over 6 pounds and not over 7 pounds..... | | 53 | 54 | 54 | 54 | 55 |
| Over 7 pounds and not over 8 pounds..... | | 58 | 58 | 59 | 59 | 60 |
| Over 8 pounds and not over 9 pounds..... | | 63 | 63 | 64 | 64 | 65 |
| Over 9 pounds and not over 10 pounds..... | | 67 | 68 | 68 | 69 | 69 |
| Over 10 pounds and not over 11 pounds..... | | 72 | 73 | 73 | 74 | 74 |
| Over 11 pounds and not over 12 pounds..... | | 77 | 78 | 78 | 79 | 79 |
| Over 12 pounds and not over 13 pounds..... | | 82 | 82 | 83 | 84 | 84 |
| Over 13 pounds and not over 14 pounds..... | | 86 | 87 | 88 | 89 | 89 |
| Over 14 pounds and not over 15 pounds..... | | 91 | 92 | 93 | 93 | 94 |
| Over 15 pounds and not over 16 pounds..... | | 96 | 97 | 98 | 98 | 99 |
| Over 16 pounds and not over 17 pounds..... | | 101 | 102 | 102 | 103 | 104 |
| Over 17 pounds and not over 18 pounds..... | | 105 | 106 | 107 | 108 | 109 |
| Over 18 pounds and not over 19 pounds..... | | 110 | 111 | 112 | 113 | 114 |
| Over 19 pounds and not over 20 pounds..... | | 115 | 116 | 117 | 118 | 119 |
| Over 20 pounds and not over 21 pounds..... | | 120 | 121 | 122 | 123 | 124 |
| Over 21 pounds and not over 22 pounds..... | | 124 | 126 | 127 | 128 | 129 |
| Over 22 pounds and not over 23 pounds..... | | 129 | 130 | 132 | 133 | 134 |
| Over 23 pounds and not over 24 pounds..... | | 134 | 135 | 136 | 138 | 139 |
| Over 24 pounds and not over 25 pounds..... | | 139 | 140 | 141 | 142 | 144 |
| Over 25 pounds and not over 26 pounds..... | | 143 | 145 | 146 | 147 | 149 |
| Over 26 pounds and not over 27 pounds..... | | 148 | 150 | 151 | 152 | 154 |
| Over 27 pounds and not over 28 pounds..... | | 153 | 154 | 156 | 157 | 159 |
| Over 28 pounds and not over 29 pounds..... | | 158 | 159 | 161 | 162 | 164 |
| Over 29 pounds and not over 30 pounds..... | | 162 | 164 | 165 | 167 | 168 |
| Over 30 pounds and not over 31 pounds..... | | 167 | 169 | 170 | 172 | 173 |
| Over 31 pounds and not over 32 pounds..... | | 172 | 174 | 175 | 177 | 178 |
| Over 32 pounds and not over 33 pounds..... | | 177 | 178 | 180 | 182 | 183 |
| Over 33 pounds and not over 34 pounds..... | | 181 | 183 | 185 | 187 | 188 |
| Over 34 pounds and not over 35 pounds..... | | 186 | 188 | 190 | 191 | 193 |
| Over 35 pounds and not over 36 pounds..... | | 191 | 193 | 195 | 196 | 198 |
| Over 36 pounds and not over 37 pounds..... | | 196 | 198 | 199 | 201 | 203 |
| Over 37 pounds and not over 38 pounds..... | | 200 | 202 | 204 | 206 | 208 |
| Over 38 pounds and not over 39 pounds..... | | 205 | 207 | 209 | 211 | 213 |
| Over 39 pounds and not over 40 pounds..... | | 210 | 212 | 214 | 216 | 218 |
| Over 40 pounds and not over 41 pounds..... | | 215 | 217 | 219 | 221 | 223 |
| Over 41 pounds and not over 42 pounds..... | | 219 | 222 | 224 | 226 | 228 |
| Over 42 pounds and not over 43 pounds..... | | 224 | 226 | 229 | 231 | 233 |
| Over 43 pounds and not over 44 pounds..... | | 229 | 231 | 233 | 236 | 238 |
| Over 44 pounds and not over 45 pounds..... | | 234 | 236 | 238 | 240 | 243 |
| Over 45 pounds and not over 46 pounds..... | | 238 | 241 | 243 | 245 | 248 |
| Over 46 pounds and not over 47 pounds..... | | 243 | 246 | 248 | 250 | 253 |
| Over 47 pounds and not over 48 pounds..... | | 248 | 250 | 253 | 255 | 258 |
| Over 48 pounds and not over 49 pounds..... | | 253 | 255 | 258 | 260 | 263 |
| Over 49 pounds and not over 50 pounds..... | | 257 | 260 | 262 | 265 | 267 |
| Over 50 pounds and not over 51 pounds..... | | 262 | 265 | 267 | 270 | 272 |
| Over 51 pounds and not over 52 pounds..... | | 267 | 270 | 272 | 275 | 277 |
| Over 52 pounds and not over 53 pounds..... | | 272 | 274 | 277 | 280 | 282 |
| Over 53 pounds and not over 54 pounds..... | | 276 | 279 | 282 | 285 | 287 |
| Over 54 pounds and not over 55 pounds..... | | 281 | 284 | 287 | 289 | 292 |
| Over 55 pounds and not over 56 pounds..... | | 286 | 289 | 292 | 294 | 297 |
| Over 56 pounds and not over 57 pounds..... | | 291 | 294 | 296 | 299 | 302 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|-----|-------------------------------|-----|-----|-----|-----|
| | | 94 | 95 | 96 | 97 | 98 |
| Over 57 pounds and not over 58 pounds..... | 295 | 298 | 301 | 304 | 307 | 310 |
| Over 58 pounds and not over 59 pounds..... | 300 | 303 | 306 | 309 | 312 | 315 |
| Over 59 pounds and not over 60 pounds..... | 305 | 308 | 311 | 314 | 317 | 320 |
| Over 60 pounds and not over 61 pounds..... | 310 | 313 | 316 | 319 | 322 | 325 |
| Over 61 pounds and not over 62 pounds..... | 314 | 318 | 321 | 324 | 327 | 330 |
| Over 62 pounds and not over 63 pounds..... | 319 | 322 | 326 | 329 | 332 | 335 |
| Over 63 pounds and not over 64 pounds..... | 324 | 327 | 330 | 334 | 337 | 340 |
| Over 64 pounds and not over 65 pounds..... | 329 | 332 | 335 | 338 | 341 | 344 |
| Over 65 pounds and not over 66 pounds..... | 333 | 337 | 340 | 343 | 347 | 350 |
| Over 66 pounds and not over 67 pounds..... | 338 | 342 | 345 | 348 | 352 | 355 |
| Over 67 pounds and not over 68 pounds..... | 343 | 346 | 350 | 353 | 357 | 360 |
| Over 68 pounds and not over 69 pounds..... | 348 | 351 | 355 | 358 | 362 | 365 |
| Over 69 pounds and not over 70 pounds..... | 352 | 356 | 359 | 363 | 366 | 370 |
| Over 70 pounds and not over 71 pounds..... | 357 | 361 | 364 | 368 | 371 | 375 |
| Over 71 pounds and not over 72 pounds..... | 362 | 366 | 369 | 373 | 376 | 380 |
| Over 72 pounds and not over 73 pounds..... | 367 | 370 | 374 | 378 | 381 | 385 |
| Over 73 pounds and not over 74 pounds..... | 371 | 375 | 379 | 383 | 386 | 390 |
| Over 74 pounds and not over 75 pounds..... | 376 | 380 | 384 | 387 | 391 | 394 |
| Over 75 pounds and not over 76 pounds..... | 381 | 385 | 389 | 392 | 396 | 400 |
| Over 76 pounds and not over 77 pounds..... | 386 | 390 | 393 | 397 | 401 | 404 |
| Over 77 pounds and not over 78 pounds..... | 390 | 394 | 398 | 402 | 406 | 410 |
| Over 78 pounds and not over 79 pounds..... | 395 | 399 | 403 | 407 | 411 | 414 |
| Over 79 pounds and not over 80 pounds..... | 400 | 404 | 408 | 412 | 416 | 420 |
| Over 80 pounds and not over 81 pounds..... | 405 | 409 | 413 | 417 | 421 | 424 |
| Over 81 pounds and not over 82 pounds..... | 409 | 414 | 418 | 422 | 426 | 430 |
| Over 82 pounds and not over 83 pounds..... | 414 | 418 | 423 | 427 | 431 | 435 |
| Over 83 pounds and not over 84 pounds..... | 419 | 423 | 427 | 432 | 436 | 440 |
| Over 84 pounds and not over 85 pounds..... | 424 | 428 | 432 | 436 | 441 | 445 |
| Over 85 pounds and not over 86 pounds..... | 428 | 433 | 437 | 441 | 446 | 450 |
| Over 86 pounds and not over 87 pounds..... | 433 | 438 | 442 | 446 | 451 | 455 |
| Over 87 pounds and not over 88 pounds..... | 438 | 442 | 447 | 451 | 456 | 460 |
| Over 88 pounds and not over 89 pounds..... | 443 | 447 | 452 | 456 | 461 | 465 |
| Over 89 pounds and not over 90 pounds..... | 447 | 452 | 456 | 461 | 465 | 470 |
| Over 90 pounds and not over 91 pounds..... | 452 | 457 | 461 | 466 | 470 | 475 |
| Over 91 pounds and not over 92 pounds..... | 457 | 462 | 466 | 471 | 475 | 480 |
| Over 92 pounds and not over 93 pounds..... | 462 | 466 | 471 | 476 | 480 | 485 |
| Over 93 pounds and not over 94 pounds..... | 466 | 471 | 476 | 481 | 485 | 490 |
| Over 94 pounds and not over 95 pounds..... | 471 | 476 | 481 | 485 | 490 | 495 |
| Over 95 pounds and not over 96 pounds..... | 476 | 481 | 486 | 490 | 495 | 500 |
| Over 96 pounds and not over 97 pounds..... | 481 | 486 | 490 | 495 | 500 | 505 |
| Over 97 pounds and not over 98 pounds..... | 485 | 490 | 495 | 500 | 505 | 510 |
| Over 98 pounds and not over 99 pounds..... | 490 | 495 | 500 | 505 | 510 | 515 |
| Over 99 pounds and not over 100 pounds..... | 495 | 500 | 505 | 510 | 515 | 520 |
| Over 100 pounds, pound rates..... | 495 | 500 | 505 | 510 | 515 | 520 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|----------------|-------------------------------|-----|-----|-----|-----|
| | | 99 | 100 | 101 | 102 | 108 |
| Not over 1 pound..... | | 25 | 26 | 26 | 26 | 26 |
| Over 1 pound and not over 2 pounds..... | 2 pounds..... | 30 | 30 | 30 | 30 | 30 |
| Over 2 pounds and not over 3 pounds..... | 3 pounds..... | 35 | 35 | 35 | 35 | 36 |
| Over 3 pounds and not over 4 pounds..... | 4 pounds..... | 40 | 40 | 40 | 41 | 41 |
| Over 4 pounds and not over 5 pounds..... | 5 pounds..... | 45 | 45 | 45 | 46 | 46 |
| Over 5 pounds and not over 6 pounds..... | 6 pounds..... | 50 | 50 | 51 | 51 | 51 |
| Over 6 pounds and not over 7 pounds..... | 7 pounds..... | 55 | 55 | 56 | 56 | 56 |
| Over 7 pounds and not over 8 pounds..... | 8 pounds..... | 60 | 60 | 61 | 61 | 62 |
| Over 8 pounds and not over 9 pounds..... | 9 pounds..... | 65 | 65 | 66 | 66 | 67 |
| Over 9 pounds and not over 10 pounds..... | 10 pounds..... | 70 | 70 | 71 | 71 | 72 |
| Over 10 pounds and not over 11 pounds..... | 11 pounds..... | 75 | 76 | 76 | 77 | 77 |
| Over 11 pounds and not over 12 pounds..... | 12 pounds..... | 80 | 81 | 81 | 82 | 82 |
| Over 12 pounds and not over 13 pounds..... | 13 pounds..... | 85 | 86 | 86 | 87 | 88 |
| Over 13 pounds and not over 14 pounds..... | 14 pounds..... | 90 | 91 | 91 | 92 | 93 |
| Over 14 pounds and not over 15 pounds..... | 15 pounds..... | 95 | 96 | 96 | 97 | 98 |
| Over 15 pounds and not over 16 pounds..... | 16 pounds..... | 100 | 101 | 102 | 102 | 103 |
| Over 16 pounds and not over 17 pounds..... | 17 pounds..... | 105 | 106 | 107 | 108 | 108 |
| Over 17 pounds and not over 18 pounds..... | 18 pounds..... | 110 | 111 | 112 | 113 | 114 |
| Over 18 pounds and not over 19 pounds..... | 19 pounds..... | 115 | 116 | 117 | 118 | 119 |
| Over 19 pounds and not over 20 pounds..... | 20 pounds..... | 120 | 121 | 122 | 123 | 124 |
| Over 20 pounds and not over 21 pounds..... | 21 pounds..... | 125 | 126 | 127 | 128 | 129 |
| Over 21 pounds and not over 22 pounds..... | 22 pounds..... | 130 | 131 | 132 | 133 | 134 |
| Over 22 pounds and not over 23 pounds..... | 23 pounds..... | 135 | 136 | 137 | 138 | 140 |
| Over 23 pounds and not over 24 pounds..... | 24 pounds..... | 140 | 141 | 142 | 144 | 145 |
| Over 24 pounds and not over 25 pounds..... | 25 pounds..... | 145 | 146 | 147 | 149 | 150 |
| Over 25 pounds and not over 26 pounds..... | 26 pounds..... | 150 | 151 | 153 | 154 | 155 |
| Over 26 pounds and not over 27 pounds..... | 27 pounds..... | 155 | 156 | 158 | 159 | 160 |
| Over 27 pounds and not over 28 pounds..... | 28 pounds..... | 160 | 161 | 163 | 164 | 166 |
| Over 28 pounds and not over 29 pounds..... | 29 pounds..... | 165 | 166 | 168 | 169 | 171 |
| Over 29 pounds and not over 30 pounds..... | 30 pounds..... | 170 | 171 | 173 | 174 | 176 |
| Over 30 pounds and not over 31 pounds..... | 31 pounds..... | 175 | 177 | 178 | 180 | 181 |
| Over 31 pounds and not over 32 pounds..... | 32 pounds..... | 180 | 182 | 183 | 185 | 186 |
| Over 32 pounds and not over 33 pounds..... | 33 pounds..... | 185 | 187 | 188 | 190 | 192 |
| Over 33 pounds and not over 34 pounds..... | 34 pounds..... | 190 | 192 | 193 | 195 | 197 |
| Over 34 pounds and not over 35 pounds..... | 35 pounds..... | 195 | 197 | 198 | 200 | 202 |
| Over 35 pounds and not over 36 pounds..... | 36 pounds..... | 200 | 202 | 204 | 205 | 207 |
| Over 36 pounds and not over 37 pounds..... | 37 pounds..... | 205 | 207 | 209 | 211 | 212 |
| Over 37 pounds and not over 38 pounds..... | 38 pounds..... | 210 | 212 | 214 | 216 | 218 |
| Over 38 pounds and not over 39 pounds..... | 39 pounds..... | 215 | 217 | 219 | 221 | 223 |
| Over 39 pounds and not over 40 pounds..... | 40 pounds..... | 220 | 222 | 224 | 226 | 228 |
| Over 40 pounds and not over 41 pounds..... | 41 pounds..... | 225 | 227 | 229 | 231 | 233 |
| Over 41 pounds and not over 42 pounds..... | 42 pounds..... | 230 | 232 | 234 | 236 | 238 |
| Over 42 pounds and not over 43 pounds..... | 43 pounds..... | 235 | 237 | 239 | 241 | 244 |
| Over 43 pounds and not over 44 pounds..... | 44 pounds..... | 240 | 242 | 244 | 247 | 249 |
| Over 44 pounds and not over 45 pounds..... | 45 pounds..... | 245 | 247 | 249 | 252 | 254 |
| Over 45 pounds and not over 46 pounds..... | 46 pounds..... | 250 | 252 | 255 | 257 | 259 |
| Over 46 pounds and not over 47 pounds..... | 47 pounds..... | 255 | 257 | 260 | 262 | 264 |
| Over 47 pounds and not over 48 pounds..... | 48 pounds..... | 260 | 262 | 265 | 267 | 270 |
| Over 48 pounds and not over 49 pounds..... | 49 pounds..... | 265 | 267 | 270 | 272 | 275 |
| Over 49 pounds and not over 50 pounds..... | 50 pounds..... | 270 | 272 | 275 | 277 | 280 |
| Over 50 pounds and not over 51 pounds..... | 51 pounds..... | 275 | 278 | 280 | 283 | 285 |
| Over 51 pounds and not over 52 pounds..... | 52 pounds..... | 280 | 283 | 285 | 288 | 290 |
| Over 52 pounds and not over 53 pounds..... | 53 pounds..... | 285 | 288 | 290 | 293 | 296 |
| Over 53 pounds and not over 54 pounds..... | 54 pounds..... | 290 | 293 | 295 | 298 | 301 |
| Over 54 pounds and not over 55 pounds..... | 55 pounds..... | 295 | 298 | 300 | 303 | 306 |
| Over 55 pounds and not over 56 pounds..... | 56 pounds..... | 300 | 303 | 306 | 308 | 311 |
| Over 56 pounds and not over 57 pounds..... | 57 pounds..... | 305 | 308 | 311 | 314 | 316 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|-----|-------------------------------|-----|-----|-----|-----|
| | | 99 | 100 | 101 | 102 | 103 |
| Over 57 pounds and not over 58 pounds..... | 310 | 313 | 316 | 319 | 322 | |
| Over 58 pounds and not over 59 pounds..... | 315 | 318 | 321 | 324 | 327 | |
| Over 59 pounds and not over 60 pounds..... | 320 | 323 | 326 | 329 | 332 | |
| Over 60 pounds and not over 61 pounds..... | 325 | 328 | 331 | 334 | 337 | |
| Over 61 pounds and not over 62 pounds..... | 330 | 333 | 336 | 339 | 342 | |
| Over 62 pounds and not over 63 pounds..... | 335 | 338 | 341 | 344 | 348 | |
| Over 63 pounds and not over 64 pounds..... | 340 | 343 | 346 | 350 | 353 | |
| Over 64 pounds and not over 65 pounds..... | 345 | 348 | 351 | 355 | 358 | |
| Over 65 pounds and not over 66 pounds..... | 350 | 353 | 357 | 360 | 363 | |
| Over 66 pounds and not over 67 pounds..... | 355 | 358 | 362 | 365 | 368 | |
| Over 67 pounds and not over 68 pounds..... | 360 | 363 | 367 | 370 | 374 | |
| Over 68 pounds and not over 69 pounds..... | 365 | 368 | 372 | 375 | 379 | |
| Over 69 pounds and not over 70 pounds..... | 370 | 373 | 377 | 380 | 384 | |
| Over 70 pounds and not over 71 pounds..... | 375 | 379 | 382 | 386 | 389 | |
| Over 71 pounds and not over 72 pounds..... | 380 | 384 | 387 | 391 | 394 | |
| Over 72 pounds and not over 73 pounds..... | 385 | 389 | 392 | 396 | 400 | |
| Over 73 pounds and not over 74 pounds..... | 390 | 394 | 397 | 401 | 405 | |
| Over 74 pounds and not over 75 pounds..... | 395 | 399 | 402 | 406 | 410 | |
| Over 75 pounds and not over 76 pounds..... | 400 | 404 | 408 | 411 | 415 | |
| Over 76 pounds and not over 77 pounds..... | 405 | 409 | 413 | 417 | 420 | |
| Over 77 pounds and not over 78 pounds..... | 410 | 414 | 418 | 422 | 426 | |
| Over 78 pounds and not over 79 pounds..... | 415 | 419 | 423 | 427 | 431 | |
| Over 79 pounds and not over 80 pounds..... | 420 | 424 | 428 | 432 | 436 | |
| Over 80 pounds and not over 81 pounds..... | 425 | 429 | 433 | 437 | 441 | |
| Over 81 pounds and not over 82 pounds..... | 430 | 434 | 438 | 442 | 446 | |
| Over 82 pounds and not over 83 pounds..... | 435 | 439 | 443 | 447 | 452 | |
| Over 83 pounds and not over 84 pounds..... | 440 | 444 | 448 | 453 | 457 | |
| Over 84 pounds and not over 85 pounds..... | 445 | 449 | 453 | 458 | 462 | |
| Over 85 pounds and not over 86 pounds..... | 450 | 454 | 459 | 463 | 467 | |
| Over 86 pounds and not over 87 pounds..... | 455 | 459 | 464 | 468 | 472 | |
| Over 87 pounds and not over 88 pounds..... | 460 | 464 | 469 | 473 | 478 | |
| Over 88 pounds and not over 89 pounds..... | 465 | 469 | 474 | 478 | 483 | |
| Over 89 pounds and not over 90 pounds..... | 470 | 474 | 479 | 483 | 488 | |
| Over 90 pounds and not over 91 pounds..... | 475 | 480 | 484 | 489 | 493 | |
| Over 91 pounds and not over 92 pounds..... | 480 | 485 | 489 | 494 | 498 | |
| Over 92 pounds and not over 93 pounds..... | 485 | 490 | 494 | 499 | 504 | |
| Over 93 pounds and not over 94 pounds..... | 490 | 495 | 499 | 504 | 509 | |
| Over 94 pounds and not over 95 pounds..... | 495 | 500 | 504 | 509 | 514 | |
| Over 95 pounds and not over 96 pounds..... | 500 | 505 | 510 | 514 | 519 | |
| Over 96 pounds and not over 97 pounds..... | 505 | 510 | 515 | 520 | 524 | |
| Over 97 pounds and not over 98 pounds..... | 510 | 515 | 520 | 525 | 530 | |
| Over 98 pounds and not over 99 pounds..... | 515 | 520 | 525 | 530 | 535 | |
| Over 99 pounds and not over 100 pounds..... | 520 | 525 | 530 | 535 | 540 | |
| Over 100 pounds, pound rates..... | 520 | 525 | 530 | 535 | 540 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | |
|--|--|----------------------------------|-----|-----|-----|
| | | 104 | 105 | 106 | 107 |
| Not over 1 pound..... | | 25 | 26 | 26 | 26 |
| Over 1 pound and not over 2 pounds..... | | 30 | 31 | 31 | 31 |
| Over 2 pounds and not over 3 pounds..... | | 36 | 36 | 36 | 36 |
| Over 3 pounds and not over 4 pounds..... | | 41 | 41 | 41 | 42 |
| Over 4 pounds and not over 5 pounds..... | | 46 | 46 | 47 | 47 |
| Over 5 pounds and not over 6 pounds..... | | 51 | 52 | 52 | 52 |
| Over 6 pounds and not over 7 pounds..... | | 57 | 57 | 57 | 58 |
| Over 7 pounds and not over 8 pounds..... | | 62 | 62 | 63 | 63 |
| Over 8 pounds and not over 9 pounds..... | | 67 | 68 | 68 | 69 |
| Over 9 pounds and not over 10 pounds..... | | 72 | 73 | 73 | 74 |
| Over 10 pounds and not over 11 pounds..... | | 78 | 78 | 79 | 79 |
| Over 11 pounds and not over 12 pounds..... | | 83 | 84 | 84 | 85 |
| Over 12 pounds and not over 13 pounds..... | | 88 | 89 | 90 | 90 |
| Over 13 pounds and not over 14 pounds..... | | 93 | 94 | 95 | 96 |
| Over 14 pounds and not over 15 pounds..... | | 99 | 99 | 100 | 101 |
| Over 15 pounds and not over 16 pounds..... | | 104 | 105 | 106 | 106 |
| Over 16 pounds and not over 17 pounds..... | | 109 | 110 | 111 | 112 |
| Over 17 pounds and not over 18 pounds..... | | 114 | 115 | 116 | 117 |
| Over 18 pounds and not over 19 pounds..... | | 120 | 121 | 122 | 123 |
| Over 19 pounds and not over 20 pounds..... | | 125 | 126 | 127 | 128 |
| Over 20 pounds and not over 21 pounds..... | | 130 | 131 | 132 | 133 |
| Over 21 pounds and not over 22 pounds..... | | 135 | 137 | 138 | 139 |
| Over 22 pounds and not over 23 pounds..... | | 141 | 142 | 143 | 144 |
| Over 23 pounds and not over 24 pounds..... | | 146 | 147 | 148 | 150 |
| Over 24 pounds and not over 25 pounds..... | | 151 | 152 | 154 | 155 |
| Over 25 pounds and not over 26 pounds..... | | 156 | 158 | 159 | 160 |
| Over 26 pounds and not over 27 pounds..... | | 162 | 163 | 164 | 166 |
| Over 27 pounds and not over 28 pounds..... | | 167 | 168 | 170 | 171 |
| Over 28 pounds and not over 29 pounds..... | | 172 | 174 | 175 | 177 |
| Over 29 pounds and not over 30 pounds..... | | 177 | 179 | 180 | 182 |
| Over 30 pounds and not over 31 pounds..... | | 183 | 184 | 186 | 187 |
| Over 31 pounds and not over 32 pounds..... | | 188 | 190 | 191 | 193 |
| Over 32 pounds and not over 33 pounds..... | | 193 | 195 | 197 | 198 |
| Over 33 pounds and not over 34 pounds..... | | 198 | 200 | 202 | 204 |
| Over 34 pounds and not over 35 pounds..... | | 204 | 205 | 207 | 209 |
| Over 35 pounds and not over 36 pounds..... | | 209 | 211 | 213 | 214 |
| Over 36 pounds and not over 37 pounds..... | | 214 | 216 | 218 | 220 |
| Over 37 pounds and not over 38 pounds..... | | 219 | 221 | 223 | 225 |
| Over 38 pounds and not over 39 pounds..... | | 225 | 227 | 229 | 231 |
| Over 39 pounds and not over 40 pounds..... | | 230 | 232 | 234 | 236 |
| Over 40 pounds and not over 41 pounds..... | | 235 | 237 | 239 | 241 |
| Over 41 pounds and not over 42 pounds..... | | 240 | 243 | 245 | 247 |
| Over 42 pounds and not over 43 pounds..... | | 246 | 248 | 250 | 252 |
| Over 43 pounds and not over 44 pounds..... | | 251 | 253 | 255 | 258 |
| Over 44 pounds and not over 45 pounds..... | | 256 | 258 | 261 | 263 |
| Over 45 pounds and not over 46 pounds..... | | 261 | 264 | 266 | 268 |
| Over 46 pounds and not over 47 pounds..... | | 267 | 269 | 271 | 274 |
| Over 47 pounds and not over 48 pounds..... | | 272 | 274 | 277 | 279 |
| Over 48 pounds and not over 49 pounds..... | | 277 | 280 | 282 | 285 |
| Over 49 pounds and not over 50 pounds..... | | 282 | 285 | 287 | 290 |
| Over 50 pounds and not over 51 pounds..... | | 288 | 290 | 293 | 295 |
| Over 51 pounds and not over 52 pounds..... | | 293 | 296 | 298 | 301 |
| Over 52 pounds and not over 53 pounds..... | | 298 | 301 | 304 | 306 |
| Over 53 pounds and not over 54 pounds..... | | 303 | 306 | 309 | 312 |
| Over 54 pounds and not over 55 pounds..... | | 309 | 311 | 314 | 317 |
| Over 55 pounds and not over 56 pounds..... | | 314 | 317 | 320 | 322 |
| Over 56 pounds and not over 57 pounds..... | | 319 | 322 | 325 | 328 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | | | Merchandise rate table number | | | |
|--|-----|-----|-----|-------------------------------|-----|-----|-----|
| | | | | 104 | 105 | 106 | 107 |
| Over 57 pounds and not over 58 pounds | 324 | 327 | 330 | 333 | 336 | 339 | 342 |
| Over 58 pounds and not over 59 pounds | 330 | 333 | 336 | 339 | 342 | 345 | 348 |
| Over 59 pounds and not over 60 pounds | 335 | 338 | 341 | 344 | 347 | 350 | 353 |
| Over 60 pounds and not over 61 pounds | 340 | 343 | 346 | 349 | 352 | 355 | 358 |
| Over 61 pounds and not over 62 pounds | 345 | 349 | 352 | 355 | 358 | 361 | 364 |
| Over 62 pounds and not over 63 pounds | 351 | 354 | 357 | 360 | 363 | 366 | 369 |
| Over 63 pounds and not over 64 pounds | 356 | 359 | 362 | 365 | 368 | 371 | 374 |
| Over 64 pounds and not over 65 pounds | 361 | 364 | 367 | 370 | 373 | 376 | 379 |
| Over 65 pounds and not over 66 pounds | 366 | 370 | 373 | 376 | 379 | 382 | 385 |
| Over 66 pounds and not over 67 pounds | 372 | 375 | 378 | 381 | 384 | 387 | 390 |
| Over 67 pounds and not over 68 pounds | 377 | 380 | 383 | 386 | 389 | 392 | 395 |
| Over 68 pounds and not over 69 pounds | 382 | 386 | 389 | 392 | 395 | 398 | 401 |
| Over 69 pounds and not over 70 pounds | 387 | 391 | 394 | 397 | 400 | 403 | 406 |
| Over 70 pounds and not over 71 pounds | 393 | 396 | 400 | 403 | 406 | 409 | 412 |
| Over 71 pounds and not over 72 pounds | 398 | 402 | 405 | 408 | 411 | 414 | 417 |
| Over 72 pounds and not over 73 pounds | 403 | 407 | 411 | 414 | 417 | 420 | 423 |
| Over 73 pounds and not over 74 pounds | 408 | 412 | 416 | 419 | 422 | 425 | 428 |
| Over 74 pounds and not over 75 pounds | 414 | 417 | 421 | 424 | 427 | 430 | 433 |
| Over 75 pounds and not over 76 pounds | 419 | 423 | 427 | 430 | 433 | 436 | 439 |
| Over 76 pounds and not over 77 pounds | 424 | 428 | 432 | 435 | 438 | 441 | 444 |
| Over 77 pounds and not over 78 pounds | 429 | 433 | 437 | 440 | 443 | 446 | 449 |
| Over 78 pounds and not over 79 pounds | 435 | 439 | 443 | 446 | 449 | 452 | 455 |
| Over 79 pounds and not over 80 pounds | 440 | 444 | 448 | 451 | 454 | 457 | 460 |
| Over 80 pounds and not over 81 pounds | 445 | 449 | 453 | 456 | 459 | 462 | 465 |
| Over 81 pounds and not over 82 pounds | 450 | 455 | 459 | 462 | 465 | 468 | 471 |
| Over 82 pounds and not over 83 pounds | 456 | 460 | 464 | 467 | 470 | 473 | 476 |
| Over 83 pounds and not over 84 pounds | 461 | 465 | 469 | 472 | 475 | 478 | 481 |
| Over 84 pounds and not over 85 pounds | 466 | 470 | 474 | 477 | 480 | 483 | 486 |
| Over 85 pounds and not over 86 pounds | 471 | 476 | 480 | 483 | 486 | 489 | 492 |
| Over 86 pounds and not over 87 pounds | 477 | 481 | 485 | 488 | 491 | 494 | 497 |
| Over 87 pounds and not over 88 pounds | 482 | 486 | 490 | 493 | 496 | 499 | 502 |
| Over 88 pounds and not over 89 pounds | 487 | 492 | 496 | 499 | 502 | 505 | 508 |
| Over 89 pounds and not over 90 pounds | 492 | 497 | 501 | 504 | 507 | 510 | 513 |
| Over 90 pounds and not over 91 pounds | 498 | 502 | 507 | 510 | 513 | 516 | 519 |
| Over 91 pounds and not over 92 pounds | 503 | 508 | 512 | 515 | 518 | 521 | 524 |
| Over 92 pounds and not over 93 pounds | 508 | 513 | 518 | 521 | 524 | 527 | 530 |
| Over 93 pounds and not over 94 pounds | 513 | 518 | 523 | 526 | 529 | 532 | 535 |
| Over 94 pounds and not over 95 pounds | 519 | 523 | 528 | 531 | 534 | 537 | 540 |
| Over 95 pounds and not over 96 pounds | 524 | 529 | 534 | 537 | 540 | 543 | 546 |
| Over 96 pounds and not over 97 pounds | 529 | 534 | 539 | 542 | 545 | 548 | 551 |
| Over 97 pounds and not over 98 pounds | 534 | 539 | 544 | 547 | 550 | 553 | 556 |
| Over 98 pounds and not over 99 pounds | 540 | 545 | 550 | 553 | 556 | 559 | 562 |
| Over 99 pounds and not over 100 pounds | 545 | 550 | 555 | 558 | 561 | 564 | 567 |
| Over 100 pounds, pound rates | 545 | 550 | 555 | 558 | 561 | 564 | 567 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|----------------|-------------------------------|-----|-----|-----|-----|
| | | 108 | 109 | 110 | 111 | 112 |
| Not over 1 pound..... | | 26 | 26 | 26 | 26 | 26 |
| Over 1 pound and not over 2 pounds..... | 2 pounds..... | 31 | 31 | 31 | 31 | 31 |
| Over 2 pounds and not over 3 pounds..... | 3 pounds..... | 36 | 36 | 37 | 37 | 37 |
| Over 3 pounds and not over 4 pounds..... | 4 pounds..... | 42 | 42 | 42 | 42 | 43 |
| Over 4 pounds and not over 5 pounds..... | 5 pounds..... | 47 | 47 | 48 | 48 | 48 |
| Over 5 pounds and not over 6 pounds..... | 6 pounds..... | 53 | 53 | 53 | 51 | 54 |
| Over 6 pounds and not over 7 pounds..... | 7 pounds..... | 58 | 58 | 59 | 59 | 60 |
| Over 7 pounds and not over 8 pounds..... | 8 pounds..... | 64 | 64 | 64 | 65 | 65 |
| Over 8 pounds and not over 9 pounds..... | 9 pounds..... | 69 | 69 | 70 | 70 | 71 |
| Over 9 pounds and not over 10 pounds..... | 10 pounds..... | 74 | 75 | 75 | 76 | 76 |
| Over 10 pounds and not over 11 pounds..... | 11 pounds..... | 80 | 80 | 81 | 82 | 82 |
| Over 11 pounds and not over 12 pounds..... | 12 pounds..... | 85 | 86 | 87 | 87 | 88 |
| Over 12 pounds and not over 13 pounds..... | 13 pounds..... | 91 | 91 | 92 | 93 | 93 |
| Over 13 pounds and not over 14 pounds..... | 14 pounds..... | 96 | 97 | 98 | 98 | 99 |
| Over 14 pounds and not over 15 pounds..... | 15 pounds..... | 102 | 102 | 103 | 104 | 105 |
| Over 15 pounds and not over 16 pounds..... | 16 pounds..... | 107 | 108 | 109 | 110 | 110 |
| Over 16 pounds and not over 17 pounds..... | 17 pounds..... | 113 | 113 | 114 | 115 | 116 |
| Over 17 pounds and not over 18 pounds..... | 18 pounds..... | 118 | 119 | 120 | 121 | 122 |
| Over 18 pounds and not over 19 pounds..... | 19 pounds..... | 124 | 124 | 125 | 126 | 127 |
| Over 19 pounds and not over 20 pounds..... | 20 pounds..... | 129 | 130 | 131 | 132 | 133 |
| Over 20 pounds and not over 21 pounds..... | 21 pounds..... | 134 | 135 | 137 | 138 | 139 |
| Over 21 pounds and not over 22 pounds..... | 22 pounds..... | 140 | 141 | 142 | 143 | 144 |
| Over 22 pounds and not over 23 pounds..... | 23 pounds..... | 145 | 146 | 148 | 149 | 150 |
| Over 23 pounds and not over 24 pounds..... | 24 pounds..... | 151 | 152 | 153 | 154 | 156 |
| Over 24 pounds and not over 25 pounds..... | 25 pounds..... | 156 | 157 | 159 | 160 | 161 |
| Over 25 pounds and not over 26 pounds..... | 26 pounds..... | 162 | 163 | 164 | 166 | 167 |
| Over 26 pounds and not over 27 pounds..... | 27 pounds..... | 167 | 168 | 170 | 171 | 173 |
| Over 27 pounds and not over 28 pounds..... | 28 pounds..... | 173 | 174 | 175 | 177 | 178 |
| Over 28 pounds and not over 29 pounds..... | 29 pounds..... | 178 | 179 | 181 | 182 | 184 |
| Over 29 pounds and not over 30 pounds..... | 30 pounds..... | 183 | 185 | 186 | 188 | 189 |
| Over 30 pounds and not over 31 pounds..... | 31 pounds..... | 189 | 190 | 192 | 194 | 195 |
| Over 31 pounds and not over 32 pounds..... | 32 pounds..... | 194 | 196 | 198 | 199 | 201 |
| Over 32 pounds and not over 33 pounds..... | 33 pounds..... | 200 | 201 | 203 | 205 | 206 |
| Over 33 pounds and not over 34 pounds..... | 34 pounds..... | 205 | 207 | 209 | 210 | 212 |
| Over 34 pounds and not over 35 pounds..... | 35 pounds..... | 211 | 212 | 214 | 216 | 218 |
| Over 35 pounds and not over 36 pounds..... | 36 pounds..... | 216 | 218 | 220 | 222 | 223 |
| Over 36 pounds and not over 37 pounds..... | 37 pounds..... | 222 | 223 | 225 | 227 | 229 |
| Over 37 pounds and not over 38 pounds..... | 38 pounds..... | 227 | 229 | 231 | 233 | 235 |
| Over 38 pounds and not over 39 pounds..... | 39 pounds..... | 233 | 234 | 236 | 238 | 240 |
| Over 39 pounds and not over 40 pounds..... | 40 pounds..... | 238 | 240 | 242 | 244 | 246 |
| Over 40 pounds and not over 41 pounds..... | 41 pounds..... | 243 | 245 | 248 | 250 | 252 |
| Over 41 pounds and not over 42 pounds..... | 42 pounds..... | 249 | 251 | 253 | 255 | 257 |
| Over 42 pounds and not over 43 pounds..... | 43 pounds..... | 254 | 256 | 259 | 261 | 263 |
| Over 43 pounds and not over 44 pounds..... | 44 pounds..... | 260 | 262 | 264 | 266 | 269 |
| Over 44 pounds and not over 45 pounds..... | 45 pounds..... | 265 | 267 | 270 | 272 | 274 |
| Over 45 pounds and not over 46 pounds..... | 46 pounds..... | 271 | 273 | 275 | 278 | 280 |
| Over 46 pounds and not over 47 pounds..... | 47 pounds..... | 276 | 278 | 281 | 283 | 286 |
| Over 47 pounds and not over 48 pounds..... | 48 pounds..... | 282 | 284 | 286 | 289 | 291 |
| Over 48 pounds and not over 49 pounds..... | 49 pounds..... | 287 | 289 | 292 | 294 | 297 |
| Over 49 pounds and not over 50 pounds..... | 50 pounds..... | 292 | 295 | 297 | 300 | 302 |
| Over 50 pounds and not over 51 pounds..... | 51 pounds..... | 298 | 300 | 303 | 306 | 308 |
| Over 51 pounds and not over 52 pounds..... | 52 pounds..... | 303 | 306 | 309 | 311 | 314 |
| Over 52 pounds and not over 53 pounds..... | 53 pounds..... | 309 | 311 | 314 | 317 | 319 |
| Over 53 pounds and not over 54 pounds..... | 54 pounds..... | 314 | 317 | 320 | 322 | 325 |
| Over 54 pounds and not over 55 pounds..... | 55 pounds..... | 320 | 322 | 325 | 328 | 331 |
| Over 55 pounds and not over 56 pounds..... | 56 pounds..... | 325 | 328 | 331 | 334 | 336 |
| Over 56 pounds and not over 57 pounds..... | 57 pounds..... | 331 | 333 | 336 | 339 | 342 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | | Merchandise rate table number | | | | |
|---|-----|-----|-------------------------------|-----|-----|-----|-----|
| | | | 108 | 109 | 110 | 111 | 112 |
| Over 57 pounds and not over 58 pounds..... | 336 | 339 | 342 | 345 | 348 | | |
| Over 58 pounds and not over 59 pounds..... | 342 | 344 | 347 | 350 | 353 | | |
| Over 59 pounds and not over 60 pounds..... | 347 | 350 | 353 | 356 | 359 | | |
| Over 60 pounds and not over 61 pounds..... | 352 | 355 | 359 | 362 | 365 | | |
| Over 61 pounds and not over 62 pounds..... | 358 | 361 | 364 | 367 | 370 | | |
| Over 62 pounds and not over 63 pounds..... | 363 | 366 | 370 | 373 | 376 | | |
| Over 63 pounds and not over 64 pounds..... | 369 | 372 | 375 | 378 | 382 | | |
| Over 64 pounds and not over 65 pounds..... | 374 | 377 | 381 | 384 | 387 | | |
| Over 65 pounds and not over 66 pounds..... | 380 | 383 | 386 | 390 | 393 | | |
| Over 66 pounds and not over 67 pounds..... | 385 | 388 | 392 | 395 | 399 | | |
| Over 67 pounds and not over 68 pounds..... | 391 | 394 | 397 | 401 | 404 | | |
| Over 68 pounds and not over 69 pounds..... | 396 | 399 | 403 | 406 | 410 | | |
| Over 69 pounds and not over 70 pounds..... | 401 | 405 | 408 | 412 | 415 | | |
| Over 70 pounds and not over 71 pounds..... | 407 | 410 | 414 | 418 | 421 | | |
| Over 71 pounds and not over 72 pounds..... | 412 | 416 | 420 | 423 | 427 | | |
| Over 72 pounds and not over 73 pounds..... | 418 | 421 | 425 | 429 | 432 | | |
| Over 73 pounds and not over 74 pounds..... | 423 | 427 | 431 | 434 | 438 | | |
| Over 74 pounds and not over 75 pounds..... | 429 | 432 | 436 | 440 | 444 | | |
| Over 75 pounds and not over 76 pounds..... | 434 | 438 | 442 | 446 | 449 | | |
| Over 76 pounds and not over 77 pounds..... | 440 | 443 | 447 | 451 | 455 | | |
| Over 77 pounds and not over 78 pounds..... | 445 | 449 | 453 | 457 | 461 | | |
| Over 78 pounds and not over 79 pounds..... | 451 | 454 | 458 | 462 | 466 | | |
| Over 79 pounds and not over 80 pounds..... | 456 | 460 | 464 | 468 | 472 | | |
| Over 80 pounds and not over 81 pounds..... | 461 | 465 | 470 | 474 | 478 | | |
| Over 81 pounds and not over 82 pounds..... | 467 | 471 | 475 | 479 | 483 | | |
| Over 82 pounds and not over 83 pounds..... | 472 | 476 | 481 | 485 | 489 | | |
| Over 83 pounds and not over 84 pounds..... | 478 | 482 | 486 | 490 | 495 | | |
| Over 84 pounds and not over 85 pounds..... | 483 | 487 | 492 | 496 | 500 | | |
| Over 85 pounds and not over 86 pounds..... | 489 | 493 | 497 | 502 | 506 | | |
| Over 86 pounds and not over 87 pounds..... | 494 | 498 | 503 | 507 | 512 | | |
| Over 87 pounds and not over 88 pounds..... | 500 | 504 | 508 | 513 | 517 | | |
| Over 88 pounds and not over 89 pounds..... | 505 | 509 | 514 | 518 | 523 | | |
| Over 89 pounds and not over 90 pounds..... | 510 | 515 | 519 | 524 | 528 | | |
| Over 90 pounds and not over 91 pounds..... | 516 | 520 | 525 | 530 | 534 | | |
| Over 91 pounds and not over 92 pounds..... | 521 | 526 | 531 | 535 | 540 | | |
| Over 92 pounds and not over 93 pounds..... | 527 | 531 | 536 | 541 | 545 | | |
| Over 93 pounds and not over 94 pounds..... | 532 | 537 | 542 | 546 | 551 | | |
| Over 94 pounds and not over 95 pounds..... | 538 | 542 | 547 | 552 | 557 | | |
| Over 95 pounds and not over 96 pounds..... | 543 | 548 | 553 | 558 | 562 | | |
| Over 96 pounds and not over 97 pounds..... | 549 | 553 | 558 | 563 | 568 | | |
| Over 97 pounds and not over 98 pounds..... | 554 | 559 | 564 | 569 | 574 | | |
| Over 98 pounds and not over 99 pounds..... | 560 | 564 | 569 | 574 | 579 | | |
| Over 99 pounds and not over 100 pounds..... | 565 | 570 | 575 | 580 | 585 | | |
| Over 100 pounds, pound rates..... | 565 | 570 | 575 | 580 | 585 | | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 113 | 114 | 115 | 116 | 117 |
| Not over 1 pound..... | | 26 | 26 | 26 | 26 | 26 |
| Over 1 pound and not over 2 pounds..... | | 31 | 31 | 32 | 32 | 32 |
| Over 2 pounds and not over 3 pounds..... | | 37 | 37 | 37 | 38 | 38 |
| Over 3 pounds and not over 4 pounds..... | | 43 | 43 | 43 | 43 | 44 |
| Over 4 pounds and not over 5 pounds..... | | 48 | 49 | 49 | 49 | 49 |
| Over 5 pounds and not over 6 pounds..... | | 54 | 54 | 55 | 55 | 55 |
| Over 6 pounds and not over 7 pounds..... | | 60 | 60 | 61 | 61 | 61 |
| Over 7 pounds and not over 8 pounds..... | | 66 | 66 | 66 | 67 | 67 |
| Over 8 pounds and not over 9 pounds..... | | 71 | 72 | 72 | 73 | 73 |
| Over 9 pounds and not over 10 pounds..... | | 77 | 77 | 78 | 78 | 79 |
| Over 10 pounds and not over 11 pounds..... | | 83 | 83 | 84 | 84 | 85 |
| Over 11 pounds and not over 12 pounds..... | | 88 | 89 | 90 | 90 | 91 |
| Over 12 pounds and not over 13 pounds..... | | 94 | 95 | 95 | 96 | 97 |
| Over 13 pounds and not over 14 pounds..... | | 100 | 100 | 101 | 102 | 103 |
| Over 14 pounds and not over 15 pounds..... | | 105 | 106 | 107 | 108 | 108 |
| Over 15 pounds and not over 16 pounds..... | | 111 | 112 | 113 | 114 | 114 |
| Over 16 pounds and not over 17 pounds..... | | 117 | 118 | 119 | 119 | 120 |
| Over 17 pounds and not over 18 pounds..... | | 123 | 123 | 124 | 125 | 126 |
| Over 18 pounds and not over 19 pounds..... | | 128 | 129 | 130 | 131 | 132 |
| Over 19 pounds and not over 20 pounds..... | | 134 | 135 | 136 | 137 | 138 |
| Over 20 pounds and not over 21 pounds..... | | 140 | 141 | 142 | 143 | 144 |
| Over 21 pounds and not over 22 pounds..... | | 145 | 146 | 148 | 149 | 150 |
| Over 22 pounds and not over 23 pounds..... | | 151 | 152 | 153 | 155 | 156 |
| Over 23 pounds and not over 24 pounds..... | | 157 | 158 | 159 | 160 | 162 |
| Over 24 pounds and not over 25 pounds..... | | 162 | 164 | 165 | 166 | 167 |
| Over 25 pounds and not over 26 pounds..... | | 168 | 169 | 171 | 172 | 173 |
| Over 26 pounds and not over 27 pounds..... | | 174 | 175 | 177 | 178 | 179 |
| Over 27 pounds and not over 28 pounds..... | | 180 | 181 | 182 | 184 | 185 |
| Over 28 pounds and not over 29 pounds..... | | 185 | 187 | 188 | 190 | 191 |
| Over 29 pounds and not over 30 pounds..... | | 191 | 192 | 194 | 195 | 197 |
| Over 30 pounds and not over 31 pounds..... | | 197 | 198 | 200 | 201 | 203 |
| Over 31 pounds and not over 32 pounds..... | | 202 | 204 | 206 | 207 | 209 |
| Over 32 pounds and not over 33 pounds..... | | 208 | 210 | 211 | 213 | 215 |
| Over 33 pounds and not over 34 pounds..... | | 214 | 215 | 217 | 219 | 221 |
| Over 34 pounds and not over 35 pounds..... | | 219 | 221 | 223 | 225 | 226 |
| Over 35 pounds and not over 36 pounds..... | | 225 | 227 | 229 | 231 | 232 |
| Over 36 pounds and not over 37 pounds..... | | 231 | 233 | 235 | 236 | 238 |
| Over 37 pounds and not over 38 pounds..... | | 237 | 238 | 240 | 242 | 244 |
| Over 38 pounds and not over 39 pounds..... | | 242 | 244 | 246 | 248 | 250 |
| Over 39 pounds and not over 40 pounds..... | | 248 | 250 | 252 | 254 | 256 |
| Over 40 pounds and not over 41 pounds..... | | 254 | 256 | 258 | 260 | 262 |
| Over 41 pounds and not over 42 pounds..... | | 259 | 261 | 264 | 266 | 268 |
| Over 42 pounds and not over 43 pounds..... | | 265 | 267 | 269 | 272 | 274 |
| Over 43 pounds and not over 44 pounds..... | | 271 | 273 | 275 | 277 | 280 |
| Over 44 pounds and not over 45 pounds..... | | 276 | 279 | 281 | 283 | 285 |
| Over 45 pounds and not over 46 pounds..... | | 282 | 284 | 287 | 289 | 291 |
| Over 46 pounds and not over 47 pounds..... | | 288 | 290 | 293 | 295 | 297 |
| Over 47 pounds and not over 48 pounds..... | | 294 | 296 | 298 | 301 | 303 |
| Over 48 pounds and not over 49 pounds..... | | 299 | 302 | 304 | 307 | 309 |
| Over 49 pounds and not over 50 pounds..... | | 305 | 307 | 310 | 312 | 315 |
| Over 50 pounds and not over 51 pounds..... | | 311 | 313 | 316 | 318 | 321 |
| Over 51 pounds and not over 52 pounds..... | | 316 | 319 | 322 | 324 | 327 |
| Over 52 pounds and not over 53 pounds..... | | 322 | 325 | 327 | 330 | 333 |
| Over 53 pounds and not over 54 pounds..... | | 328 | 330 | 333 | 336 | 339 |
| Over 54 pounds and not over 55 pounds..... | | 333 | 336 | 339 | 342 | 344 |
| Over 55 pounds and not over 56 pounds..... | | 339 | 342 | 345 | 348 | 350 |
| Over 56 pounds and not over 57 pounds..... | | 345 | 348 | 351 | 353 | 356 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|
| | | 113 | 114 | 115 | 116 | 117 |
| Over 57 pounds and not over 58 pounds | ----- | 351 | 353 | 356 | 359 | 362 |
| Over 58 pounds and not over 59 pounds | ----- | 356 | 359 | 362 | 365 | 368 |
| Over 59 pounds and not over 60 pounds | ----- | 362 | 365 | 368 | 371 | 374 |
| Over 60 pounds and not over 61 pounds | ----- | 368 | 371 | 374 | 377 | 380 |
| Over 61 pounds and not over 62 pounds | ----- | 373 | 376 | 380 | 383 | 386 |
| Over 62 pounds and not over 63 pounds | ----- | 379 | 382 | 385 | 389 | 392 |
| Over 63 pounds and not over 64 pounds | ----- | 385 | 388 | 391 | 394 | 398 |
| Over 64 pounds and not over 65 pounds | ----- | 390 | 394 | 397 | 400 | 403 |
| Over 65 pounds and not over 66 pounds | ----- | 396 | 399 | 403 | 406 | 409 |
| Over 66 pounds and not over 67 pounds | ----- | 402 | 405 | 409 | 412 | 415 |
| Over 67 pounds and not over 68 pounds | ----- | 408 | 411 | 414 | 418 | 421 |
| Over 68 pounds and not over 69 pounds | ----- | 413 | 417 | 420 | 424 | 427 |
| Over 69 pounds and not over 70 pounds | ----- | 419 | 422 | 426 | 429 | 433 |
| Over 70 pounds and not over 71 pounds | ----- | 425 | 428 | 432 | 435 | 439 |
| Over 71 pounds and not over 72 pounds | ----- | 430 | 434 | 438 | 441 | 445 |
| Over 72 pounds and not over 73 pounds | ----- | 436 | 440 | 442 | 447 | 451 |
| Over 73 pounds and not over 74 pounds | ----- | 442 | 445 | 449 | 453 | 457 |
| Over 74 pounds and not over 75 pounds | ----- | 447 | 451 | 455 | 459 | 462 |
| Over 75 pounds and not over 76 pounds | ----- | 453 | 457 | 461 | 465 | 468 |
| Over 76 pounds and not over 77 pounds | ----- | 459 | 463 | 467 | 470 | 474 |
| Over 77 pounds and not over 78 pounds | ----- | 465 | 468 | 472 | 476 | 480 |
| Over 78 pounds and not over 79 pounds | ----- | 470 | 474 | 478 | 482 | 486 |
| Over 79 pounds and not over 80 pounds | ----- | 476 | 480 | 484 | 488 | 492 |
| Over 80 pounds and not over 81 pounds | ----- | 482 | 486 | 490 | 494 | 498 |
| Over 81 pounds and not over 82 pounds | ----- | 487 | 491 | 496 | 500 | 504 |
| Over 82 pounds and not over 83 pounds | ----- | 493 | 497 | 501 | 506 | 510 |
| Over 83 pounds and not over 84 pounds | ----- | 499 | 503 | 507 | 511 | 516 |
| Over 84 pounds and not over 85 pounds | ----- | 504 | 509 | 513 | 517 | 521 |
| Over 85 pounds and not over 86 pounds | ----- | 510 | 514 | 519 | 523 | 527 |
| Over 86 pounds and not over 87 pounds | ----- | 516 | 520 | 525 | 529 | 533 |
| Over 87 pounds and not over 88 pounds | ----- | 522 | 526 | 530 | 535 | 539 |
| Over 88 pounds and not over 89 pounds | ----- | 527 | 532 | 536 | 541 | 545 |
| Over 89 pounds and not over 90 pounds | ----- | 533 | 537 | 542 | 546 | 551 |
| Over 90 pounds and not over 91 pounds | ----- | 539 | 543 | 548 | 552 | 557 |
| Over 91 pounds and not over 92 pounds | ----- | 544 | 549 | 554 | 558 | 563 |
| Over 92 pounds and not over 93 pounds | ----- | 550 | 555 | 559 | 564 | 569 |
| Over 93 pounds and not over 94 pounds | ----- | 556 | 560 | 565 | 570 | 575 |
| Over 94 pounds and not over 95 pounds | ----- | 561 | 566 | 571 | 576 | 580 |
| Over 95 pounds and not over 96 pounds | ----- | 567 | 572 | 577 | 582 | 586 |
| Over 96 pounds and not over 97 pounds | ----- | 573 | 578 | 583 | 587 | 592 |
| Over 97 pounds and not over 98 pounds | ----- | 579 | 583 | 588 | 593 | 598 |
| Over 98 pounds and not over 99 pounds | ----- | 584 | 589 | 594 | 599 | 604 |
| Over 99 pounds and not over 100 pounds | ----- | 590 | 595 | 600 | 605 | 610 |
| Over 100 pounds, pound rates | ----- | 590 | 595 | 600 | 605 | 610 |

Wells Fargo & Company Express—Continued.
Charges are in cents.

| | | Merchandise rate table number | | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|-----|
| | | 118 | 119 | 120 | 121 | 122 | 123 |
| Not over 1 pound..... | | 26 | 26 | 27 | 27 | 27 | 27 |
| Over 1 pound and not over 2 pounds..... | | 32 | 32 | 32 | 32 | 32 | 32 |
| Over 2 pounds and not over 3 pounds..... | | 38 | 38 | 38 | 38 | 38 | 39 |
| Over 3 pounds and not over 4 pounds..... | | 44 | 44 | 44 | 45 | 45 | 45 |
| Over 4 pounds and not over 5 pounds..... | | 50 | 50 | 50 | 51 | 51 | 51 |
| Over 5 pounds and not over 6 pounds..... | | 56 | 56 | 56 | 57 | 57 | 57 |
| Over 6 pounds and not over 7 pounds..... | | 62 | 62 | 62 | 63 | 63 | 63 |
| Over 7 pounds and not over 8 pounds..... | | 68 | 68 | 68 | 69 | 69 | 70 |
| Over 8 pounds and not over 9 pounds..... | | 74 | 74 | 74 | 75 | 75 | 76 |
| Over 9 pounds and not over 10 pounds..... | | 79 | 80 | 80 | 81 | 81 | 82 |
| Over 10 pounds and not over 11 pounds..... | | 85 | 86 | 87 | 87 | 88 | 88 |
| Over 11 pounds and not over 12 pounds..... | | 91 | 92 | 93 | 93 | 94 | 94 |
| Over 12 pounds and not over 13 pounds..... | | 97 | 98 | 99 | 99 | 100 | 101 |
| Over 13 pounds and not over 14 pounds..... | | 103 | 104 | 105 | 105 | 106 | 107 |
| Over 14 pounds and not over 15 pounds..... | | 109 | 110 | 111 | 111 | 112 | 113 |
| Over 15 pounds and not over 16 pounds..... | | 115 | 116 | 117 | 118 | 118 | 119 |
| Over 16 pounds and not over 17 pounds..... | | 121 | 122 | 123 | 124 | 125 | 125 |
| Over 17 pounds and not over 18 pounds..... | | 127 | 128 | 129 | 130 | 131 | 132 |
| Over 18 pounds and not over 19 pounds..... | | 133 | 134 | 135 | 136 | 137 | 138 |
| Over 19 pounds and not over 20 pounds..... | | 139 | 140 | 141 | 142 | 143 | 144 |
| Over 20 pounds and not over 21 pounds..... | | 145 | 146 | 147 | 148 | 149 | 150 |
| Over 21 pounds and not over 22 pounds..... | | 151 | 152 | 153 | 154 | 155 | 156 |
| Over 22 pounds and not over 23 pounds..... | | 157 | 158 | 159 | 160 | 161 | 163 |
| Over 23 pounds and not over 24 pounds..... | | 163 | 164 | 165 | 166 | 168 | 169 |
| Over 24 pounds and not over 25 pounds..... | | 169 | 170 | 171 | 172 | 174 | 175 |
| Over 25 pounds and not over 26 pounds..... | | 175 | 176 | 177 | 179 | 180 | 181 |
| Over 26 pounds and not over 27 pounds..... | | 181 | 182 | 183 | 185 | 186 | 187 |
| Over 27 pounds and not over 28 pounds..... | | 187 | 188 | 189 | 191 | 192 | 194 |
| Over 28 pounds and not over 29 pounds..... | | 193 | 194 | 195 | 197 | 198 | 200 |
| Over 29 pounds and not over 30 pounds..... | | 198 | 200 | 201 | 203 | 204 | 206 |
| Over 30 pounds and not over 31 pounds..... | | 204 | 206 | 208 | 209 | 211 | 212 |
| Over 31 pounds and not over 32 pounds..... | | 210 | 212 | 214 | 215 | 217 | 218 |
| Over 32 pounds and not over 33 pounds..... | | 216 | 218 | 220 | 221 | 223 | 225 |
| Over 33 pounds and not over 34 pounds..... | | 222 | 224 | 226 | 227 | 229 | 231 |
| Over 34 pounds and not over 35 pounds..... | | 228 | 230 | 232 | 233 | 235 | 237 |
| Over 35 pounds and not over 36 pounds..... | | 234 | 236 | 238 | 240 | 241 | 243 |
| Over 36 pounds and not over 37 pounds..... | | 240 | 242 | 244 | 246 | 248 | 249 |
| Over 37 pounds and not over 38 pounds..... | | 246 | 248 | 250 | 252 | 254 | 256 |
| Over 38 pounds and not over 39 pounds..... | | 252 | 254 | 256 | 258 | 260 | 262 |
| Over 39 pounds and not over 40 pounds..... | | 258 | 260 | 262 | 264 | 266 | 268 |
| Over 40 pounds and not over 41 pounds..... | | 264 | 266 | 268 | 270 | 272 | 274 |
| Over 41 pounds and not over 42 pounds..... | | 270 | 272 | 274 | 276 | 278 | 280 |
| Over 42 pounds and not over 43 pounds..... | | 276 | 278 | 280 | 282 | 284 | 287 |
| Over 43 pounds and not over 44 pounds..... | | 282 | 284 | 286 | 288 | 291 | 293 |
| Over 44 pounds and not over 45 pounds..... | | 288 | 290 | 292 | 294 | 297 | 299 |
| Over 45 pounds and not over 46 pounds..... | | 294 | 296 | 298 | 301 | 303 | 305 |
| Over 46 pounds and not over 47 pounds..... | | 300 | 302 | 304 | 307 | 309 | 311 |
| Over 47 pounds and not over 48 pounds..... | | 306 | 308 | 310 | 313 | 315 | 318 |
| Over 48 pounds and not over 49 pounds..... | | 312 | 314 | 316 | 319 | 321 | 324 |
| Over 49 pounds and not over 50 pounds..... | | 317 | 320 | 322 | 325 | 327 | 330 |
| Over 50 pounds and not over 51 pounds..... | | 323 | 326 | 329 | 331 | 334 | 336 |
| Over 51 pounds and not over 52 pounds..... | | 329 | 332 | 335 | 337 | 340 | 342 |
| Over 52 pounds and not over 53 pounds..... | | 335 | 338 | 341 | 343 | 346 | 349 |
| Over 53 pounds and not over 54 pounds..... | | 341 | 344 | 347 | 349 | 352 | 355 |
| Over 54 pounds and not over 55 pounds..... | | 347 | 350 | 353 | 355 | 358 | 361 |
| Over 55 pounds and not over 56 pounds..... | | 353 | 356 | 359 | 362 | 364 | 367 |
| Over 56 pounds and not over 57 pounds..... | | 359 | 362 | 365 | 368 | 371 | 373 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | | |
|---|-----|-------------------------------|-----|-----|-----|-----|-----|
| | | 118 | 119 | 120 | 121 | 122 | 123 |
| Over 57 pounds and not over 58 pounds..... | 365 | 368 | 371 | 374 | 377 | 380 | |
| Over 58 pounds and not over 59 pounds..... | 371 | 374 | 377 | 380 | 383 | 386 | |
| Over 59 pounds and not over 60 pounds..... | 377 | 380 | 383 | 386 | 389 | 392 | |
| Over 60 pounds and not over 61 pounds..... | 383 | 386 | 389 | 392 | 395 | 398 | |
| Over 61 pounds and not over 62 pounds..... | 389 | 392 | 395 | 398 | 401 | 404 | |
| Over 62 pounds and not over 63 pounds..... | 395 | 398 | 401 | 404 | 407 | 411 | |
| Over 63 pounds and not over 64 pounds..... | 401 | 404 | 407 | 410 | 414 | 417 | |
| Over 64 pounds and not over 65 pounds..... | 407 | 410 | 413 | 416 | 420 | 423 | |
| Over 65 pounds and not over 66 pounds..... | 413 | 416 | 419 | 423 | 426 | 429 | |
| Over 66 pounds and not over 67 pounds..... | 419 | 422 | 425 | 429 | 432 | 435 | |
| Over 67 pounds and not over 68 pounds..... | 425 | 428 | 431 | 435 | 438 | 442 | |
| Over 68 pounds and not over 69 pounds..... | 431 | 434 | 437 | 441 | 444 | 448 | |
| Over 69 pounds and not over 70 pounds..... | 436 | 440 | 443 | 447 | 450 | 454 | |
| Over 70 pounds and not over 71 pounds..... | 442 | 446 | 450 | 453 | 457 | 460 | |
| Over 71 pounds and not over 72 pounds..... | 448 | 452 | 456 | 459 | 463 | 466 | |
| Over 72 pounds and not over 73 pounds..... | 454 | 458 | 462 | 465 | 469 | 473 | |
| Over 73 pounds and not over 74 pounds..... | 460 | 464 | 468 | 471 | 475 | 479 | |
| Over 74 pounds and not over 75 pounds..... | 466 | 470 | 474 | 477 | 481 | 485 | |
| Over 75 pounds and not over 76 pounds..... | 472 | 476 | 480 | 484 | 487 | 491 | |
| Over 76 pounds and not over 77 pounds..... | 478 | 482 | 486 | 490 | 494 | 497 | |
| Over 77 pounds and not over 78 pounds..... | 484 | 488 | 492 | 496 | 500 | 504 | |
| Over 78 pounds and not over 79 pounds..... | 490 | 494 | 498 | 502 | 506 | 510 | |
| Over 79 pounds and not over 80 pounds..... | 496 | 500 | 504 | 508 | 512 | 516 | |
| Over 80 pounds and not over 81 pounds..... | 502 | 506 | 510 | 514 | 518 | 522 | |
| Over 81 pounds and not over 82 pounds..... | 508 | 512 | 516 | 520 | 524 | 528 | |
| Over 82 pounds and not over 83 pounds..... | 514 | 518 | 522 | 526 | 530 | 535 | |
| Over 83 pounds and not over 84 pounds..... | 520 | 524 | 528 | 532 | 537 | 541 | |
| Over 84 pounds and not over 85 pounds..... | 526 | 530 | 534 | 538 | 543 | 547 | |
| Over 85 pounds and not over 86 pounds..... | 532 | 536 | 540 | 545 | 549 | 553 | |
| Over 86 pounds and not over 87 pounds..... | 538 | 542 | 546 | 551 | 555 | 559 | |
| Over 87 pounds and not over 88 pounds..... | 544 | 548 | 552 | 557 | 561 | 566 | |
| Over 88 pounds and not over 89 pounds..... | 550 | 554 | 558 | 563 | 567 | 572 | |
| Over 89 pounds and not over 90 pounds..... | 555 | 560 | 564 | 569 | 573 | 578 | |
| Over 90 pounds and not over 91 pounds..... | 561 | 566 | 571 | 575 | 580 | 584 | |
| Over 91 pounds and not over 92 pounds..... | 567 | 572 | 577 | 581 | 586 | 590 | |
| Over 92 pounds and not over 93 pounds..... | 573 | 578 | 583 | 587 | 592 | 597 | |
| Over 93 pounds and not over 94 pounds..... | 579 | 584 | 589 | 593 | 598 | 603 | |
| Over 94 pounds and not over 95 pounds..... | 585 | 590 | 595 | 599 | 604 | 609 | |
| Over 95 pounds and not over 96 pounds..... | 591 | 596 | 601 | 606 | 610 | 615 | |
| Over 96 pounds and not over 97 pounds..... | 597 | 602 | 607 | 612 | 617 | 621 | |
| Over 97 pounds and not over 98 pounds..... | 603 | 608 | 613 | 618 | 623 | 628 | |
| Over 98 pounds and not over 99 pounds..... | 609 | 614 | 619 | 624 | 629 | 634 | |
| Over 99 pounds and not over 100 pounds..... | 615 | 620 | 625 | 630 | 635 | 640 | |
| Over 100 pounds, pound rates..... | 615 | 620 | 625 | 630 | 635 | 640 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 124 | 125 | 126 | 127 | 128 |
| Not over 1 pound..... | | 27 | 27 | 27 | 27 | 27 |
| Over 1 pound and not over 2 pounds..... | | 32 | 33 | 33 | 33 | 33 |
| Over 2 pounds and not over 3 pounds..... | | 39 | 39 | 39 | 39 | 39 |
| Over 3 pounds and not over 4 pounds..... | | 45 | 45 | 45 | 46 | 46 |
| Over 4 pounds and not over 5 pounds..... | | 51 | 51 | 52 | 52 | 52 |
| Over 5 pounds and not over 6 pounds..... | | 57 | 58 | 58 | 58 | 59 |
| Over 6 pounds and not over 7 pounds..... | | 64 | 64 | 64 | 65 | 65 |
| Over 7 pounds and not over 8 pounds..... | | 70 | 70 | 71 | 71 | 72 |
| Over 8 pounds and not over 9 pounds..... | | 76 | 77 | 77 | 78 | 78 |
| Over 9 pounds and not over 10 pounds..... | | 82 | 83 | 83 | 84 | 84 |
| Over 10 pounds and not over 11 pounds..... | | 89 | 89 | 90 | 90 | 91 |
| Over 11 pounds and not over 12 pounds..... | | 95 | 96 | 96 | 97 | 97 |
| Over 12 pounds and not over 13 pounds..... | | 101 | 102 | 103 | 104 | 104 |
| Over 13 pounds and not over 14 pounds..... | | 107 | 108 | 109 | 110 | 110 |
| Over 14 pounds and not over 15 pounds..... | | 114 | 114 | 115 | 116 | 117 |
| Over 15 pounds and not over 16 pounds..... | | 120 | 121 | 122 | 122 | 123 |
| Over 16 pounds and not over 17 pounds..... | | 126 | 127 | 128 | 129 | 130 |
| Over 17 pounds and not over 18 pounds..... | | 132 | 133 | 134 | 135 | 136 |
| Over 18 pounds and not over 19 pounds..... | | 139 | 140 | 141 | 142 | 143 |
| Over 19 pounds and not over 20 pounds..... | | 145 | 146 | 147 | 148 | 149 |
| Over 20 pounds and not over 21 pounds..... | | 151 | 152 | 153 | 154 | 155 |
| Over 21 pounds and not over 22 pounds..... | | 157 | 159 | 160 | 161 | 162 |
| Over 22 pounds and not over 23 pounds..... | | 164 | 165 | 166 | 167 | 168 |
| Over 23 pounds and not over 24 pounds..... | | 170 | 171 | 172 | 174 | 175 |
| Over 24 pounds and not over 25 pounds..... | | 176 | 177 | 179 | 180 | 181 |
| Over 25 pounds and not over 26 pounds..... | | 182 | 184 | 185 | 186 | 188 |
| Over 26 pounds and not over 27 pounds..... | | 189 | 190 | 191 | 193 | 194 |
| Over 27 pounds and not over 28 pounds..... | | 195 | 196 | 198 | 199 | 201 |
| Over 28 pounds and not over 29 pounds..... | | 201 | 203 | 204 | 206 | 207 |
| Over 29 pounds and not over 30 pounds..... | | 207 | 209 | 210 | 212 | 213 |
| Over 30 pounds and not over 31 pounds..... | | 214 | 215 | 217 | 218 | 220 |
| Over 31 pounds and not over 32 pounds..... | | 220 | 222 | 223 | 225 | 226 |
| Over 32 pounds and not over 33 pounds..... | | 226 | 228 | 230 | 231 | 233 |
| Over 33 pounds and not over 34 pounds..... | | 232 | 234 | 236 | 238 | 239 |
| Over 34 pounds and not over 35 pounds..... | | 239 | 240 | 242 | 244 | 246 |
| Over 35 pounds and not over 36 pounds..... | | 245 | 247 | 249 | 250 | 252 |
| Over 36 pounds and not over 37 pounds..... | | 251 | 253 | 255 | 257 | 259 |
| Over 37 pounds and not over 38 pounds..... | | 257 | 259 | 261 | 263 | 265 |
| Over 38 pounds and not over 39 pounds..... | | 264 | 266 | 268 | 270 | 272 |
| Over 39 pounds and not over 40 pounds..... | | 270 | 272 | 274 | 276 | 278 |
| Over 40 pounds and not over 41 pounds..... | | 276 | 278 | 280 | 282 | 284 |
| Over 41 pounds and not over 42 pounds..... | | 282 | 285 | 287 | 289 | 291 |
| Over 42 pounds and not over 43 pounds..... | | 282 | 285 | 287 | 289 | 291 |
| Over 43 pounds and not over 44 pounds..... | | 289 | 291 | 293 | 295 | 297 |
| Over 44 pounds and not over 45 pounds..... | | 301 | 303 | 306 | 308 | 310 |
| Over 45 pounds and not over 46 pounds..... | | 307 | 310 | 312 | 314 | 317 |
| Over 46 pounds and not over 47 pounds..... | | 314 | 316 | 318 | 321 | 323 |
| Over 47 pounds and not over 48 pounds..... | | 320 | 322 | 325 | 327 | 330 |
| Over 48 pounds and not over 49 pounds..... | | 326 | 329 | 331 | 334 | 336 |
| Over 49 pounds and not over 50 pounds..... | | 332 | 335 | 337 | 340 | 342 |
| Over 50 pounds and not over 51 pounds..... | | 339 | 341 | 344 | 346 | 349 |
| Over 51 pounds and not over 52 pounds..... | | 345 | 348 | 350 | 353 | 355 |
| Over 52 pounds and not over 53 pounds..... | | 351 | 354 | 357 | 359 | 362 |
| Over 53 pounds and not over 54 pounds..... | | 357 | 360 | 363 | 366 | 368 |
| Over 54 pounds and not over 55 pounds..... | | 364 | 366 | 369 | 372 | 375 |
| Over 55 pounds and not over 56 pounds..... | | 370 | 373 | 376 | 378 | 381 |
| Over 56 pounds and not over 57 pounds..... | | 376 | 379 | 382 | 385 | 388 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | Merchandise rate table number | | | | |
|---|-------------------------------|-----|-----|-----|-----|
| | 124 | 125 | 126 | 127 | 128 |
| Over 57 pounds and not over 58 pounds..... | 382 | 385 | 388 | 391 | 394 |
| Over 58 pounds and not over 59 pounds..... | 389 | 392 | 395 | 398 | 401 |
| Over 59 pounds and not over 60 pounds..... | 395 | 398 | 401 | 404 | 407 |
| Over 60 pounds and not over 61 pounds..... | 401 | 404 | 407 | 410 | 413 |
| Over 61 pounds and not over 62 pounds..... | 407 | 411 | 414 | 417 | 420 |
| Over 62 pounds and not over 63 pounds..... | 414 | 417 | 420 | 423 | 426 |
| Over 63 pounds and not over 64 pounds..... | 420 | 423 | 426 | 430 | 433 |
| Over 64 pounds and not over 65 pounds..... | 426 | 429 | 433 | 436 | 439 |
| Over 65 pounds and not over 66 pounds..... | 432 | 436 | 439 | 442 | 446 |
| Over 66 pounds and not over 67 pounds..... | 439 | 442 | 445 | 449 | 452 |
| Over 67 pounds and not over 68 pounds..... | 445 | 448 | 452 | 455 | 459 |
| Over 68 pounds and not over 69 pounds..... | 451 | 455 | 458 | 462 | 465 |
| Over 69 pounds and not over 70 pounds..... | 457 | 461 | 464 | 468 | 471 |
| Over 70 pounds and not over 71 pounds..... | 464 | 467 | 471 | 474 | 478 |
| Over 71 pounds and not over 72 pounds..... | 470 | 474 | 477 | 481 | 484 |
| Over 72 pounds and not over 73 pounds..... | 476 | 480 | 484 | 487 | 491 |
| Over 73 pounds and not over 74 pounds..... | 482 | 486 | 490 | 494 | 497 |
| Over 74 pounds and not over 75 pounds..... | 489 | 492 | 496 | 500 | 504 |
| Over 75 pounds and not over 76 pounds..... | 495 | 499 | 503 | 506 | 510 |
| Over 76 pounds and not over 77 pounds..... | 501 | 505 | 509 | 513 | 517 |
| Over 77 pounds and not over 78 pounds..... | 507 | 511 | 515 | 519 | 523 |
| Over 78 pounds and not over 79 pounds..... | 514 | 518 | 522 | 526 | 530 |
| Over 79 pounds and not over 80 pounds..... | 520 | 524 | 528 | 532 | 536 |
| Over 80 pounds and not over 81 pounds..... | 526 | 530 | 534 | 538 | 542 |
| Over 81 pounds and not over 82 pounds..... | 532 | 537 | 541 | 545 | 549 |
| Over 82 pounds and not over 83 pounds..... | 539 | 543 | 547 | 551 | 555 |
| Over 83 pounds and not over 84 pounds..... | 545 | 549 | 553 | 558 | 562 |
| Over 84 pounds and not over 85 pounds..... | 551 | 555 | 560 | 564 | 568 |
| Over 85 pounds and not over 86 pounds..... | 557 | 562 | 566 | 570 | 575 |
| Over 86 pounds and not over 87 pounds..... | 564 | 568 | 572 | 577 | 581 |
| Over 87 pounds and not over 88 pounds..... | 570 | 574 | 579 | 583 | 588 |
| Over 88 pounds and not over 89 pounds..... | 576 | 581 | 585 | 590 | 594 |
| Over 89 pounds and not over 90 pounds..... | 582 | 587 | 591 | 596 | 600 |
| Over 90 pounds and not over 91 pounds..... | 589 | 593 | 598 | 602 | 607 |
| Over 91 pounds and not over 92 pounds..... | 595 | 600 | 604 | 609 | 613 |
| Over 92 pounds and not over 93 pounds..... | 601 | 606 | 611 | 615 | 620 |
| Over 93 pounds and not over 94 pounds..... | 607 | 612 | 617 | 622 | 626 |
| Over 94 pounds and not over 95 pounds..... | 614 | 618 | 623 | 628 | 633 |
| Over 95 pounds and not over 96 pounds..... | 620 | 625 | 630 | 634 | 639 |
| Over 96 pounds and not over 97 pounds..... | 626 | 631 | 636 | 641 | 646 |
| Over 97 pounds and not over 98 pounds..... | 632 | 637 | 642 | 647 | 652 |
| Over 98 pounds and not over 99 pounds..... | 639 | 644 | 649 | 654 | 659 |
| Over 99 pounds and not over 100 pounds..... | 645 | 650 | 655 | 660 | 665 |
| Over 100 pounds, pound rates..... | 645 | 650 | 655 | 660 | 665 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 129 | 130 | 131 | 132 | 133 |
| Not over 1 pound..... | | 27 | 27 | 27 | 27 | 27 |
| Over 1 pound and not over 2 pounds..... | | 33 | 33 | 33 | 33 | 33 |
| Over 2 pounds and not over 3 pounds..... | | 39 | 40 | 40 | 40 | 40 |
| Over 3 pounds and not over 4 pounds..... | | 46 | 46 | 46 | 47 | 47 |
| Over 4 pounds and not over 5 pounds..... | | 52 | 53 | 53 | 53 | 53 |
| Over 5 pounds and not over 6 pounds..... | | 59 | 59 | 60 | 60 | 60 |
| Over 6 pounds and not over 7 pounds..... | | 65 | 66 | 66 | 67 | 67 |
| Over 7 pounds and not over 8 pounds..... | | 72 | 72 | 73 | 73 | 74 |
| Over 8 pounds and not over 9 pounds..... | | 78 | 79 | 79 | 80 | 80 |
| Over 9 pounds and not over 10 pounds..... | | 85 | 85 | 86 | 86 | 87 |
| Over 10 pounds and not over 11 pounds..... | | 91 | 92 | 93 | 93 | 94 |
| Over 11 pounds and not over 12 pounds..... | | 98 | 99 | 99 | 100 | 100 |
| Over 12 pounds and not over 13 pounds..... | | 104 | 105 | 106 | 106 | 107 |
| Over 13 pounds and not over 14 pounds..... | | 111 | 112 | 112 | 113 | 114 |
| Over 14 pounds and not over 15 pounds..... | | 117 | 118 | 119 | 120 | 120 |
| Over 15 pounds and not over 16 pounds..... | | 124 | 125 | 126 | 126 | 127 |
| Over 16 pounds and not over 17 pounds..... | | 130 | 131 | 132 | 133 | 134 |
| Over 17 pounds and not over 18 pounds..... | | 137 | 138 | 139 | 140 | 141 |
| Over 18 pounds and not over 19 pounds..... | | 143 | 144 | 145 | 146 | 147 |
| Over 19 pounds and not over 20 pounds..... | | 150 | 151 | 152 | 153 | 154 |
| Over 20 pounds and not over 21 pounds..... | | 156 | 158 | 159 | 160 | 161 |
| Over 21 pounds and not over 22 pounds..... | | 163 | 164 | 165 | 166 | 167 |
| Over 22 pounds and not over 23 pounds..... | | 169 | 171 | 172 | 173 | 174 |
| Over 23 pounds and not over 24 pounds..... | | 176 | 177 | 178 | 180 | 181 |
| Over 24 pounds and not over 25 pounds..... | | 182 | 184 | 185 | 186 | 187 |
| Over 25 pounds and not over 26 pounds..... | | 189 | 190 | 192 | 193 | 194 |
| Over 26 pounds and not over 27 pounds..... | | 195 | 197 | 198 | 200 | 201 |
| Over 27 pounds and not over 28 pounds..... | | 202 | 203 | 205 | 206 | 208 |
| Over 28 pounds and not over 29 pounds..... | | 208 | 210 | 211 | 213 | 214 |
| Over 29 pounds and not over 30 pounds..... | | 215 | 216 | 218 | 219 | 221 |
| Over 30 pounds and not over 31 pounds..... | | 221 | 223 | 225 | 226 | 228 |
| Over 31 pounds and not over 32 pounds..... | | 228 | 230 | 231 | 233 | 234 |
| Over 32 pounds and not over 33 pounds..... | | 234 | 236 | 238 | 239 | 241 |
| Over 33 pounds and not over 34 pounds..... | | 241 | 243 | 244 | 246 | 248 |
| Over 34 pounds and not over 35 pounds..... | | 247 | 249 | 251 | 253 | 254 |
| Over 35 pounds and not over 36 pounds..... | | 254 | 256 | 258 | 259 | 261 |
| Over 36 pounds and not over 37 pounds..... | | 260 | 262 | 264 | 266 | 268 |
| Over 37 pounds and not over 38 pounds..... | | 267 | 269 | 271 | 273 | 275 |
| Over 38 pounds and not over 39 pounds..... | | 273 | 275 | 277 | 279 | 281 |
| Over 39 pounds and not over 40 pounds..... | | 280 | 282 | 284 | 286 | 288 |
| Over 40 pounds and not over 41 pounds..... | | 286 | 289 | 291 | 293 | 295 |
| Over 41 pounds and not over 42 pounds..... | | 293 | 295 | 297 | 299 | 301 |
| Over 42 pounds and not over 43 pounds..... | | 299 | 302 | 304 | 306 | 308 |
| Over 43 pounds and not over 44 pounds..... | | 306 | 308 | 310 | 313 | 315 |
| Over 44 pounds and not over 45 pounds..... | | 312 | 315 | 317 | 319 | 321 |
| Over 45 pounds and not over 46 pounds..... | | 319 | 321 | 324 | 326 | 328 |
| Over 46 pounds and not over 47 pounds..... | | 325 | 328 | 330 | 333 | 335 |
| Over 47 pounds and not over 48 pounds..... | | 332 | 334 | 337 | 339 | 342 |
| Over 48 pounds and not over 49 pounds..... | | 338 | 341 | 343 | 346 | 348 |
| Over 49 pounds and not over 50 pounds..... | | 345 | 347 | 350 | 352 | 355 |
| Over 50 pounds and not over 51 pounds..... | | 351 | 354 | 357 | 359 | 362 |
| Over 51 pounds and not over 52 pounds..... | | 358 | 361 | 363 | 366 | 368 |
| Over 52 pounds and not over 53 pounds..... | | 364 | 367 | 370 | 372 | 375 |
| Over 53 pounds and not over 54 pounds..... | | 371 | 374 | 376 | 379 | 382 |
| Over 54 pounds and not over 55 pounds..... | | 377 | 380 | 383 | 386 | 388 |
| Over 55 pounds and not over 56 pounds..... | | 384 | 387 | 390 | 392 | 395 |
| Over 56 pounds and not over 57 pounds..... | | 390 | 393 | 396 | 399 | 402 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|-----|-------------------------------|-----|-----|-----|-----|
| | | 129 | 130 | 131 | 132 | 133 |
| Over 57 pounds and not over 58 pounds | 397 | 400 | 403 | 406 | 409 | 412 |
| Over 58 pounds and not over 59 pounds | 403 | 406 | 409 | 412 | 415 | 418 |
| Over 59 pounds and not over 60 pounds | 410 | 413 | 416 | 419 | 422 | 425 |
| Over 60 pounds and not over 61 pounds | 416 | 420 | 423 | 426 | 429 | 432 |
| Over 61 pounds and not over 62 pounds | 423 | 426 | 429 | 432 | 435 | 438 |
| Over 62 pounds and not over 63 pounds | 429 | 433 | 436 | 439 | 442 | 445 |
| Over 63 pounds and not over 64 pounds | 436 | 439 | 442 | 445 | 448 | 451 |
| Over 64 pounds and not over 65 pounds | 442 | 446 | 449 | 452 | 455 | 458 |
| Over 65 pounds and not over 66 pounds | 449 | 452 | 456 | 459 | 462 | 465 |
| Over 66 pounds and not over 67 pounds | 455 | 459 | 462 | 466 | 469 | 472 |
| Over 67 pounds and not over 68 pounds | 462 | 465 | 469 | 472 | 476 | 479 |
| Over 68 pounds and not over 69 pounds | 468 | 472 | 475 | 479 | 482 | 485 |
| Over 69 pounds and not over 70 pounds | 475 | 478 | 482 | 485 | 489 | 492 |
| Over 70 pounds and not over 71 pounds | 481 | 485 | 489 | 492 | 496 | 499 |
| Over 71 pounds and not over 72 pounds | 488 | 492 | 495 | 499 | 502 | 505 |
| Over 72 pounds and not over 73 pounds | 494 | 498 | 502 | 505 | 509 | 512 |
| Over 73 pounds and not over 74 pounds | 501 | 505 | 508 | 512 | 516 | 519 |
| Over 74 pounds and not over 75 pounds | 507 | 511 | 515 | 519 | 522 | 525 |
| Over 75 pounds and not over 76 pounds | 514 | 518 | 522 | 525 | 529 | 532 |
| Over 76 pounds and not over 77 pounds | 520 | 524 | 528 | 532 | 536 | 539 |
| Over 77 pounds and not over 78 pounds | 527 | 531 | 535 | 539 | 543 | 546 |
| Over 78 pounds and not over 79 pounds | 533 | 537 | 541 | 545 | 549 | 552 |
| Over 79 pounds and not over 80 pounds | 540 | 544 | 548 | 552 | 556 | 559 |
| Over 80 pounds and not over 81 pounds | 546 | 551 | 555 | 559 | 563 | 566 |
| Over 81 pounds and not over 82 pounds | 553 | 557 | 561 | 565 | 569 | 572 |
| Over 82 pounds and not over 83 pounds | 559 | 564 | 568 | 572 | 576 | 579 |
| Over 83 pounds and not over 84 pounds | 566 | 570 | 574 | 579 | 583 | 586 |
| Over 84 pounds and not over 85 pounds | 572 | 577 | 581 | 585 | 589 | 592 |
| Over 85 pounds and not over 86 pounds | 579 | 583 | 588 | 592 | 596 | 599 |
| Over 86 pounds and not over 87 pounds | 585 | 590 | 594 | 599 | 603 | 606 |
| Over 87 pounds and not over 88 pounds | 592 | 596 | 601 | 605 | 610 | 613 |
| Over 88 pounds and not over 89 pounds | 598 | 603 | 607 | 612 | 616 | 619 |
| Over 89 pounds and not over 90 pounds | 605 | 609 | 614 | 618 | 623 | 626 |
| Over 90 pounds and not over 91 pounds | 611 | 616 | 621 | 625 | 630 | 633 |
| Over 91 pounds and not over 92 pounds | 618 | 623 | 627 | 632 | 636 | 639 |
| Over 92 pounds and not over 93 pounds | 624 | 629 | 634 | 638 | 643 | 646 |
| Over 93 pounds and not over 94 pounds | 631 | 636 | 640 | 645 | 650 | 653 |
| Over 94 pounds and not over 95 pounds | 637 | 642 | 647 | 652 | 656 | 659 |
| Over 95 pounds and not over 96 pounds | 644 | 649 | 654 | 658 | 663 | 666 |
| Over 96 pounds and not over 97 pounds | 650 | 655 | 660 | 665 | 670 | 673 |
| Over 97 pounds and not over 98 pounds | 657 | 662 | 667 | 672 | 677 | 680 |
| Over 98 pounds and not over 99 pounds | 663 | 668 | 673 | 678 | 683 | 686 |
| Over 99 pounds and not over 100 pounds | 670 | 675 | 680 | 685 | 690 | 693 |
| Over 100 pounds, pound rates | 670 | 675 | 680 | 685 | 690 | 693 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|-----|
| | | 134 | 135 | 136 | 137 | 138 | 139 |
| Not over 1 pound..... | | 27 | 27 | 27 | 27 | 27 | 27 |
| Over 1 pound and not over 2 pounds..... | | 33 | 34 | 34 | 34 | 34 | 34 |
| Over 2 pounds and not over 3 pounds..... | | 40 | 40 | 41 | 41 | 41 | 41 |
| Over 3 pounds and not over 4 pounds..... | | 47 | 47 | 47 | 48 | 48 | 48 |
| Over 4 pounds and not over 5 pounds..... | | 54 | 54 | 54 | 54 | 55 | 55 |
| Over 5 pounds and not over 6 pounds..... | | 60 | 61 | 61 | 61 | 62 | 62 |
| Over 6 pounds and not over 7 pounds..... | | 67 | 68 | 68 | 68 | 69 | 69 |
| Over 7 pounds and not over 8 pounds..... | | 74 | 74 | 75 | 75 | 76 | 76 |
| Over 8 pounds and not over 9 pounds..... | | 81 | 81 | 82 | 82 | 83 | 83 |
| Over 9 pounds and not over 10 pounds..... | | 87 | 88 | 88 | 89 | 89 | 90 |
| Over 10 pounds and not over 11 pounds..... | | 94 | 95 | 95 | 96 | 96 | 97 |
| Over 11 pounds and not over 12 pounds..... | | 101 | 102 | 102 | 103 | 103 | 104 |
| Over 12 pounds and not over 13 pounds..... | | 108 | 108 | 109 | 110 | 110 | 111 |
| Over 13 pounds and not over 14 pounds..... | | 114 | 115 | 116 | 117 | 117 | 118 |
| Over 14 pounds and not over 15 pounds..... | | 121 | 122 | 123 | 123 | 124 | 125 |
| Over 15 pounds and not over 16 pounds..... | | 128 | 129 | 130 | 130 | 131 | 132 |
| Over 16 pounds and not over 17 pounds..... | | 135 | 136 | 136 | 137 | 138 | 139 |
| Over 17 pounds and not over 18 pounds..... | | 141 | 142 | 143 | 144 | 145 | 146 |
| Over 18 pounds and not over 19 pounds..... | | 148 | 149 | 150 | 151 | 152 | 153 |
| Over 19 pounds and not over 20 pounds..... | | 155 | 156 | 157 | 158 | 159 | 160 |
| Over 20 pounds and not over 21 pounds..... | | 162 | 163 | 164 | 165 | 166 | 167 |
| Over 21 pounds and not over 22 pounds..... | | 168 | 170 | 171 | 172 | 173 | 174 |
| Over 22 pounds and not over 23 pounds..... | | 175 | 176 | 178 | 179 | 180 | 181 |
| Over 23 pounds and not over 24 pounds..... | | 182 | 183 | 184 | 186 | 187 | 188 |
| Over 24 pounds and not over 25 pounds..... | | 189 | 190 | 191 | 192 | 194 | 195 |
| Over 25 pounds and not over 26 pounds..... | | 195 | 197 | 198 | 199 | 201 | 202 |
| Over 26 pounds and not over 27 pounds..... | | 202 | 204 | 205 | 206 | 208 | 209 |
| Over 27 pounds and not over 28 pounds..... | | 209 | 210 | 212 | 213 | 215 | 216 |
| Over 28 pounds and not over 29 pounds..... | | 216 | 217 | 219 | 220 | 222 | 223 |
| Over 29 pounds and not over 30 pounds..... | | 222 | 224 | 225 | 227 | 228 | 230 |
| Over 30 pounds and not over 31 pounds..... | | 229 | 231 | 232 | 234 | 235 | 237 |
| Over 31 pounds and not over 32 pounds..... | | 236 | 238 | 239 | 241 | 242 | 244 |
| Over 32 pounds and not over 33 pounds..... | | 243 | 244 | 246 | 248 | 249 | 251 |
| Over 33 pounds and not over 34 pounds..... | | 249 | 251 | 253 | 255 | 256 | 258 |
| Over 34 pounds and not over 35 pounds..... | | 256 | 258 | 260 | 261 | 263 | 265 |
| Over 35 pounds and not over 36 pounds..... | | 263 | 265 | 267 | 268 | 270 | 272 |
| Over 36 pounds and not over 37 pounds..... | | 270 | 272 | 273 | 275 | 277 | 279 |
| Over 37 pounds and not over 38 pounds..... | | 276 | 278 | 280 | 282 | 284 | 286 |
| Over 38 pounds and not over 39 pounds..... | | 283 | 285 | 287 | 289 | 291 | 293 |
| Over 39 pounds and not over 40 pounds..... | | 290 | 292 | 294 | 296 | 298 | 300 |
| Over 40 pounds and not over 41 pounds..... | | 297 | 299 | 301 | 303 | 305 | 307 |
| Over 41 pounds and not over 42 pounds..... | | 303 | 306 | 308 | 310 | 312 | 314 |
| Over 42 pounds and not over 43 pounds..... | | 310 | 312 | 315 | 317 | 319 | 321 |
| Over 43 pounds and not over 44 pounds..... | | 317 | 319 | 321 | 324 | 326 | 328 |
| Over 44 pounds and not over 45 pounds..... | | 324 | 326 | 328 | 330 | 333 | 335 |
| Over 45 pounds and not over 46 pounds..... | | 330 | 333 | 335 | 337 | 340 | 342 |
| Over 46 pounds and not over 47 pounds..... | | 337 | 340 | 342 | 344 | 347 | 349 |
| Over 47 pounds and not over 48 pounds..... | | 344 | 346 | 349 | 351 | 354 | 356 |
| Over 48 pounds and not over 49 pounds..... | | 351 | 353 | 356 | 358 | 361 | 363 |
| Over 49 pounds and not over 50 pounds..... | | 357 | 360 | 362 | 365 | 367 | 370 |
| Over 50 pounds and not over 51 pounds..... | | 364 | 367 | 369 | 372 | 374 | 377 |
| Over 51 pounds and not over 52 pounds..... | | 371 | 374 | 376 | 379 | 381 | 384 |
| Over 52 pounds and not over 53 pounds..... | | 378 | 380 | 383 | 386 | 388 | 391 |
| Over 53 pounds and not over 54 pounds..... | | 384 | 387 | 390 | 393 | 395 | 398 |
| Over 54 pounds and not over 55 pounds..... | | 391 | 394 | 397 | 399 | 402 | 405 |
| Over 55 pounds and not over 56 pounds..... | | 398 | 401 | 404 | 406 | 409 | 412 |
| Over 56 pounds and not over 57 pounds..... | | 405 | 408 | 410 | 413 | 416 | 419 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | | Merchandise rate table number | | | | | |
|---|-----|-----|-------------------------------|-----|-----|-----|-----|-----|
| | | | 134 | 135 | 136 | 137 | 138 | 139 |
| Over 57 pounds and not over 58 pounds..... | 411 | 414 | 417 | 420 | 423 | 426 | | |
| Over 58 pounds and not over 59 pounds..... | 418 | 421 | 424 | 427 | 430 | 433 | | |
| Over 59 pounds and not over 60 pounds..... | 425 | 428 | 431 | 434 | 437 | 440 | | |
| Over 60 pounds and not over 61 pounds..... | 432 | 435 | 438 | 441 | 444 | 447 | | |
| Over 61 pounds and not over 62 pounds..... | 438 | 442 | 445 | 448 | 451 | 454 | | |
| Over 62 pounds and not over 63 pounds..... | 445 | 448 | 452 | 455 | 458 | 461 | | |
| Over 63 pounds and not over 64 pounds..... | 452 | 455 | 458 | 462 | 465 | 468 | | |
| Over 64 pounds and not over 65 pounds..... | 459 | 462 | 465 | 468 | 472 | 475 | | |
| Over 65 pounds and not over 66 pounds..... | 465 | 469 | 472 | 475 | 479 | 482 | | |
| Over 66 pounds and not over 67 pounds..... | 472 | 476 | 479 | 482 | 486 | 489 | | |
| Over 67 pounds and not over 68 pounds..... | 479 | 482 | 486 | 489 | 493 | 496 | | |
| Over 68 pounds and not over 69 pounds..... | 486 | 489 | 493 | 496 | 500 | 503 | | |
| Over 69 pounds and not over 70 pounds..... | 492 | 496 | 499 | 503 | 506 | 510 | | |
| Over 70 pounds and not over 71 pounds..... | 499 | 503 | 506 | 510 | 513 | 517 | | |
| Over 71 pounds and not over 72 pounds..... | 506 | 510 | 513 | 517 | 520 | 524 | | |
| Over 72 pounds and not over 73 pounds..... | 513 | 516 | 520 | 524 | 527 | 531 | | |
| Over 73 pounds and not over 74 pounds..... | 519 | 523 | 527 | 531 | 534 | 538 | | |
| Over 74 pounds and not over 75 pounds..... | 526 | 530 | 534 | 537 | 541 | 545 | | |
| Over 75 pounds and not over 76 pounds..... | 533 | 537 | 541 | 544 | 548 | 552 | | |
| Over 76 pounds and not over 77 pounds..... | 540 | 544 | 547 | 551 | 555 | 559 | | |
| Over 77 pounds and not over 78 pounds..... | 546 | 550 | 554 | 558 | 562 | 566 | | |
| Over 78 pounds and not over 79 pounds..... | 553 | 557 | 561 | 565 | 569 | 573 | | |
| Over 79 pounds and not over 80 pounds..... | 560 | 564 | 568 | 572 | 576 | 580 | | |
| Over 80 pounds and not over 81 pounds..... | 567 | 571 | 575 | 579 | 583 | 587 | | |
| Over 81 pounds and not over 82 pounds..... | 573 | 578 | 582 | 586 | 590 | 594 | | |
| Over 82 pounds and not over 83 pounds..... | 580 | 584 | 589 | 593 | 597 | 601 | | |
| Over 83 pounds and not over 84 pounds..... | 587 | 591 | 595 | 600 | 604 | 608 | | |
| Over 84 pounds and not over 85 pounds..... | 594 | 598 | 602 | 606 | 611 | 615 | | |
| Over 85 pounds and not over 86 pounds..... | 600 | 605 | 609 | 613 | 618 | 622 | | |
| Over 86 pounds and not over 87 pounds..... | 607 | 612 | 616 | 620 | 625 | 629 | | |
| Over 87 pounds and not over 88 pounds..... | 614 | 618 | 623 | 627 | 632 | 636 | | |
| Over 88 pounds and not over 89 pounds..... | 621 | 625 | 630 | 634 | 639 | 643 | | |
| Over 89 pounds and not over 90 pounds..... | 627 | 632 | 636 | 641 | 645 | 650 | | |
| Over 90 pounds and not over 91 pounds..... | 634 | 639 | 643 | 648 | 652 | 657 | | |
| Over 91 pounds and not over 92 pounds..... | 641 | 646 | 650 | 655 | 659 | 664 | | |
| Over 92 pounds and not over 93 pounds..... | 648 | 652 | 657 | 662 | 666 | 671 | | |
| Over 93 pounds and not over 94 pounds..... | 654 | 659 | 664 | 669 | 673 | 678 | | |
| Over 94 pounds and not over 95 pounds..... | 661 | 666 | 671 | 675 | 680 | 685 | | |
| Over 95 pounds and not over 96 pounds..... | 668 | 673 | 678 | 682 | 687 | 692 | | |
| Over 96 pounds and not over 97 pounds..... | 675 | 680 | 684 | 689 | 694 | 699 | | |
| Over 97 pounds and not over 98 pounds..... | 681 | 686 | 691 | 696 | 701 | 705 | | |
| Over 98 pounds and not over 99 pounds..... | 688 | 693 | 698 | 703 | 708 | 713 | | |
| Over 99 pounds and not over 100 pounds..... | 695 | 700 | 705 | 710 | 715 | 720 | | |
| Over 100 pounds, pound rates..... | 695 | 700 | 705 | 710 | 715 | 720 | | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|
| | | 140 | 141 | 142 | 143 | 144 |
| Not over 1 pound..... | | 28 | 28 | 28 | 28 | 28 |
| Over 1 pound and not over 2 pounds..... | | 34 | 34 | 34 | 34 | 34 |
| Over 2 pounds and not over 3 pounds..... | | 41 | 41 | 41 | 42 | 42 |
| Over 3 pounds and not over 4 pounds..... | | 48 | 48 | 49 | 49 | 49 |
| Over 4 pounds and not over 5 pounds..... | | 55 | 55 | 56 | 56 | 56 |
| Over 5 pounds and not over 6 pounds..... | | 62 | 63 | 63 | 63 | 63 |
| Over 6 pounds and not over 7 pounds..... | | 69 | 70 | 70 | 70 | 71 |
| Over 7 pounds and not over 8 pounds..... | | 76 | 77 | 77 | 78 | 78 |
| Over 8 pounds and not over 9 pounds..... | | 83 | 84 | 84 | 85 | 85 |
| Over 9 pounds and not over 10 pounds..... | | 90 | 91 | 91 | 92 | 92 |
| Over 10 pounds and not over 11 pounds..... | | 98 | 98 | 99 | 99 | 100 |
| Over 11 pounds and not over 12 pounds..... | | 105 | 105 | 106 | 106 | 107 |
| Over 12 pounds and not over 13 pounds..... | | 112 | 112 | 113 | 114 | 114 |
| Over 13 pounds and not over 14 pounds..... | | 119 | 119 | 120 | 121 | 121 |
| Over 14 pounds and not over 15 pounds..... | | 126 | 126 | 127 | 128 | 129 |
| Over 15 pounds and not over 16 pounds..... | | 133 | 134 | 134 | 135 | 136 |
| Over 16 pounds and not over 17 pounds..... | | 140 | 141 | 142 | 142 | 143 |
| Over 17 pounds and not over 18 pounds..... | | 147 | 148 | 149 | 150 | 150 |
| Over 18 pounds and not over 19 pounds..... | | 154 | 155 | 156 | 157 | 158 |
| Over 19 pounds and not over 20 pounds..... | | 161 | 162 | 163 | 164 | 165 |
| Over 20 pounds and not over 21 pounds..... | | 168 | 169 | 170 | 171 | 172 |
| Over 21 pounds and not over 22 pounds..... | | 175 | 176 | 177 | 178 | 179 |
| Over 22 pounds and not over 23 pounds..... | | 182 | 183 | 184 | 186 | 187 |
| Over 23 pounds and not over 24 pounds..... | | 189 | 190 | 192 | 193 | 194 |
| Over 24 pounds and not over 25 pounds..... | | 196 | 197 | 199 | 200 | 201 |
| Over 25 pounds and not over 26 pounds..... | | 203 | 205 | 206 | 207 | 208 |
| Over 26 pounds and not over 27 pounds..... | | 210 | 212 | 213 | 214 | 216 |
| Over 27 pounds and not over 28 pounds..... | | 217 | 219 | 220 | 222 | 223 |
| Over 28 pounds and not over 29 pounds..... | | 224 | 226 | 227 | 229 | 230 |
| Over 29 pounds and not over 30 pounds..... | | 231 | 233 | 234 | 236 | 237 |
| Over 30 pounds and not over 31 pounds..... | | 239 | 240 | 242 | 243 | 245 |
| Over 31 pounds and not over 32 pounds..... | | 246 | 247 | 249 | 250 | 252 |
| Over 32 pounds and not over 33 pounds..... | | 253 | 254 | 256 | 258 | 259 |
| Over 33 pounds and not over 34 pounds..... | | 260 | 261 | 263 | 265 | 266 |
| Over 34 pounds and not over 35 pounds..... | | 267 | 268 | 270 | 272 | 274 |
| Over 35 pounds and not over 36 pounds..... | | 274 | 276 | 277 | 279 | 281 |
| Over 36 pounds and not over 37 pounds..... | | 281 | 283 | 285 | 286 | 288 |
| Over 37 pounds and not over 38 pounds..... | | 288 | 290 | 292 | 294 | 295 |
| Over 38 pounds and not over 39 pounds..... | | 295 | 297 | 299 | 301 | 303 |
| Over 39 pounds and not over 40 pounds..... | | 302 | 304 | 306 | 308 | 310 |
| Over 40 pounds and not over 41 pounds..... | | 309 | 311 | 313 | 315 | 317 |
| Over 41 pounds and not over 42 pounds..... | | 316 | 318 | 320 | 322 | 324 |
| Over 42 pounds and not over 43 pounds..... | | 323 | 325 | 327 | 330 | 332 |
| Over 43 pounds and not over 44 pounds..... | | 330 | 332 | 335 | 337 | 339 |
| Over 44 pounds and not over 45 pounds..... | | 337 | 339 | 342 | 344 | 346 |
| Over 45 pounds and not over 46 pounds..... | | 344 | 347 | 349 | 351 | 353 |
| Over 46 pounds and not over 47 pounds..... | | 351 | 354 | 356 | 358 | 361 |
| Over 47 pounds and not over 48 pounds..... | | 358 | 361 | 363 | 366 | 368 |
| Over 48 pounds and not over 49 pounds..... | | 365 | 368 | 370 | 373 | 375 |
| Over 49 pounds and not over 50 pounds..... | | 372 | 375 | 377 | 380 | 382 |
| Over 50 pounds and not over 51 pounds..... | | 380 | 382 | 385 | 387 | 390 |
| Over 51 pounds and not over 52 pounds..... | | 387 | 389 | 392 | 394 | 397 |
| Over 52 pounds and not over 53 pounds..... | | 394 | 396 | 399 | 402 | 404 |
| Over 53 pounds and not over 54 pounds..... | | 401 | 403 | 406 | 409 | 411 |
| Over 54 pounds and not over 55 pounds..... | | 408 | 410 | 413 | 416 | 419 |
| Over 55 pounds and not over 56 pounds..... | | 415 | 418 | 420 | 423 | 426 |
| Over 56 pounds and not over 57 pounds..... | | 422 | 425 | 428 | 430 | 433 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | |
|---|-----|-------------------------------|-----|-----|-----|-----|
| | | 140 | 141 | 142 | 143 | 144 |
| Over 57 pounds and not over 58 pounds..... | 429 | 432 | 435 | 438 | 440 | |
| Over 58 pounds and not over 59 pounds..... | 436 | 439 | 442 | 445 | 448 | |
| Over 59 pounds and not over 60 pounds..... | 443 | 446 | 449 | 452 | 455 | |
| Over 60 pounds and not over 61 pounds..... | 450 | 453 | 456 | 459 | 462 | |
| Over 61 pounds and not over 62 pounds..... | 457 | 460 | 463 | 466 | 469 | |
| Over 62 pounds and not over 63 pounds..... | 464 | 467 | 470 | 474 | 477 | |
| Over 63 pounds and not over 64 pounds..... | 471 | 474 | 478 | 481 | 484 | |
| Over 64 pounds and not over 65 pounds..... | 478 | 481 | 485 | 488 | 491 | |
| Over 65 pounds and not over 66 pounds..... | 485 | 489 | 492 | 495 | 498 | |
| Over 66 pounds and not over 67 pounds..... | 492 | 496 | 499 | 502 | 506 | |
| Over 67 pounds and not over 68 pounds..... | 499 | 503 | 506 | 510 | 513 | |
| Over 68 pounds and not over 69 pounds..... | 506 | 510 | 513 | 517 | 520 | |
| Over 69 pounds and not over 70 pounds..... | 513 | 517 | 520 | 524 | 527 | |
| Over 70 pounds and not over 71 pounds..... | 521 | 524 | 528 | 531 | 535 | |
| Over 71 pounds and not over 72 pounds..... | 528 | 531 | 535 | 538 | 542 | |
| Over 72 pounds and not over 73 pounds..... | 535 | 538 | 542 | 546 | 549 | |
| Over 73 pounds and not over 74 pounds..... | 542 | 545 | 549 | 553 | 556 | |
| Over 74 pounds and not over 75 pounds..... | 549 | 552 | 556 | 560 | 564 | |
| Over 75 pounds and not over 76 pounds..... | 556 | 560 | 563 | 567 | 571 | |
| Over 76 pounds and not over 77 pounds..... | 563 | 567 | 571 | 574 | 578 | |
| Over 77 pounds and not over 78 pounds..... | 570 | 574 | 578 | 582 | 585 | |
| Over 78 pounds and not over 79 pounds..... | 577 | 581 | 585 | 589 | 593 | |
| Over 79 pounds and not over 80 pounds..... | 584 | 588 | 592 | 596 | 600 | |
| Over 80 pounds and not over 81 pounds..... | 591 | 595 | 599 | 603 | 607 | |
| Over 81 pounds and not over 82 pounds..... | 598 | 602 | 606 | 610 | 614 | |
| Over 82 pounds and not over 83 pounds..... | 605 | 609 | 613 | 618 | 622 | |
| Over 83 pounds and not over 84 pounds..... | 612 | 616 | 621 | 625 | 629 | |
| Over 84 pounds and not over 85 pounds..... | 619 | 623 | 628 | 632 | 636 | |
| Over 85 pounds and not over 86 pounds..... | 626 | 631 | 635 | 639 | 643 | |
| Over 86 pounds and not over 87 pounds..... | 633 | 638 | 642 | 646 | 651 | |
| Over 87 pounds and not over 88 pounds..... | 640 | 645 | 649 | 654 | 658 | |
| Over 88 pounds and not over 89 pounds..... | 647 | 652 | 656 | 661 | 665 | |
| Over 89 pounds and not over 90 pounds..... | 654 | 659 | 663 | 668 | 672 | |
| Over 90 pounds and not over 91 pounds..... | 662 | 666 | 671 | 675 | 680 | |
| Over 91 pounds and not over 92 pounds..... | 669 | 673 | 678 | 682 | 687 | |
| Over 92 pounds and not over 93 pounds..... | 676 | 680 | 685 | 690 | 694 | |
| Over 93 pounds and not over 94 pounds..... | 683 | 687 | 692 | 697 | 701 | |
| Over 94 pounds and not over 95 pounds..... | 690 | 694 | 699 | 704 | 709 | |
| Over 95 pounds and not over 96 pounds..... | 697 | 702 | 706 | 711 | 716 | |
| Over 96 pounds and not over 97 pounds..... | 704 | 709 | 714 | 718 | 723 | |
| Over 97 pounds and not over 98 pounds..... | 711 | 716 | 721 | 726 | 730 | |
| Over 98 pounds and not over 99 pounds..... | 718 | 723 | 728 | 733 | 738 | |
| Over 99 pounds and not over 100 pounds..... | 725 | 730 | 735 | 740 | 745 | |
| Over 100 pounds, pound rates..... | 725 | 730 | 735 | 740 | 745 | |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | Merchandise rate table number | | | | |
|--|-------------------------------|-----|-----|-----|-----|
| | 145 | 146 | 147 | 148 | 149 |
| Not over 1 pound..... | 28 | 28 | 28 | 28 | 28 |
| Over 1 pound and not over 2 pounds..... | 35 | 35 | 35 | 35 | 35 |
| Over 2 pounds and not over 3 pounds..... | 42 | 42 | 42 | 42 | 42 |
| Over 3 pounds and not over 4 pounds..... | 49 | 49 | 50 | 50 | 50 |
| Over 4 pounds and not over 5 pounds..... | 56 | 57 | 57 | 57 | 57 |
| Over 5 pounds and not over 6 pounds..... | 64 | 64 | 64 | 65 | 65 |
| Over 6 pounds and not over 7 pounds..... | 71 | 71 | 72 | 72 | 72 |
| Over 7 pounds and not over 8 pounds..... | 78 | 79 | 79 | 80 | 80 |
| Over 8 pounds and not over 9 pounds..... | 86 | 86 | 87 | 87 | 87 |
| Over 9 pounds and not over 10 pounds..... | 93 | 93 | 94 | 94 | 95 |
| Over 10 pounds and not over 11 pounds..... | 100 | 101 | 101 | 102 | 102 |
| Over 11 pounds and not over 12 pounds..... | 108 | 108 | 109 | 109 | 110 |
| Over 12 pounds and not over 13 pounds..... | 115 | 116 | 116 | 117 | 117 |
| Over 13 pounds and not over 14 pounds..... | 122 | 123 | 124 | 125 | 125 |
| Over 14 pounds and not over 15 pounds..... | 129 | 130 | 131 | 132 | 132 |
| Over 15 pounds and not over 16 pounds..... | 137 | 138 | 138 | 139 | 140 |
| Over 16 pounds and not over 17 pounds..... | 144 | 145 | 146 | 147 | 147 |
| Over 17 pounds and not over 18 pounds..... | 151 | 152 | 153 | 154 | 155 |
| Over 18 pounds and not over 19 pounds..... | 159 | 160 | 161 | 162 | 162 |
| Over 19 pounds and not over 20 pounds..... | 166 | 167 | 168 | 169 | 170 |
| Over 20 pounds and not over 21 pounds..... | 173 | 174 | 175 | 176 | 177 |
| Over 21 pounds and not over 22 pounds..... | 181 | 182 | 183 | 184 | 185 |
| Over 22 pounds and not over 23 pounds..... | 188 | 189 | 190 | 191 | 192 |
| Over 23 pounds and not over 24 pounds..... | 195 | 196 | 198 | 199 | 200 |
| Over 24 pounds and not over 25 pounds..... | 202 | 204 | 205 | 206 | 207 |
| Over 25 pounds and not over 26 pounds..... | 210 | 211 | 212 | 214 | 215 |
| Over 26 pounds and not over 27 pounds..... | 217 | 218 | 220 | 221 | 222 |
| Over 27 pounds and not over 28 pounds..... | 224 | 226 | 227 | 229 | 230 |
| Over 28 pounds and not over 29 pounds..... | 232 | 233 | 235 | 236 | 237 |
| Over 29 pounds and not over 30 pounds..... | 239 | 240 | 242 | 243 | 245 |
| Over 30 pounds and not over 31 pounds..... | 246 | 248 | 249 | 251 | 252 |
| Over 31 pounds and not over 32 pounds..... | 254 | 255 | 257 | 258 | 260 |
| Over 32 pounds and not over 33 pounds..... | 261 | 263 | 264 | 266 | 267 |
| Over 33 pounds and not over 34 pounds..... | 268 | 270 | 272 | 273 | 275 |
| Over 34 pounds and not over 35 pounds..... | 275 | 277 | 279 | 281 | 282 |
| Over 35 pounds and not over 36 pounds..... | 283 | 285 | 286 | 288 | 290 |
| Over 36 pounds and not over 37 pounds..... | 290 | 292 | 294 | 296 | 297 |
| Over 37 pounds and not over 38 pounds..... | 297 | 299 | 301 | 303 | 305 |
| Over 38 pounds and not over 39 pounds..... | 305 | 307 | 309 | 311 | 312 |
| Over 39 pounds and not over 40 pounds..... | 312 | 314 | 316 | 318 | 320 |
| Over 40 pounds and not over 41 pounds..... | 319 | 321 | 323 | 325 | 327 |
| Over 41 pounds and not over 42 pounds..... | 327 | 329 | 331 | 333 | 335 |
| Over 42 pounds and not over 43 pounds..... | 334 | 336 | 338 | 340 | 342 |
| Over 43 pounds and not over 44 pounds..... | 341 | 343 | 346 | 348 | 350 |
| Over 44 pounds and not over 45 pounds..... | 348 | 351 | 353 | 355 | 357 |
| Over 45 pounds and not over 46 pounds..... | 356 | 358 | 360 | 363 | 365 |
| Over 46 pounds and not over 47 pounds..... | 363 | 365 | 368 | 370 | 372 |
| Over 47 pounds and not over 48 pounds..... | 370 | 373 | 375 | 378 | 380 |
| Over 48 pounds and not over 49 pounds..... | 378 | 380 | 383 | 385 | 387 |
| Over 49 pounds and not over 50 pounds..... | 385 | 387 | 390 | 392 | 395 |
| Over 50 pounds and not over 51 pounds..... | 393 | 395 | 397 | 400 | 402 |
| Over 51 pounds and not over 52 pounds..... | 400 | 402 | 405 | 407 | 410 |
| Over 52 pounds and not over 53 pounds..... | 407 | 410 | 412 | 415 | 417 |
| Over 53 pounds and not over 54 pounds..... | 414 | 417 | 420 | 422 | 425 |
| Over 54 pounds and not over 55 pounds..... | 421 | 424 | 427 | 430 | 432 |
| Over 55 pounds and not over 56 pounds..... | 429 | 432 | 434 | 437 | 440 |
| Over 56 pounds and not over 57 pounds..... | 436 | 439 | 442 | 445 | 447 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | Merchandise rate table number | | | | |
|---|-------------------------------|-----|-----|-----|-----|
| | 145 | 146 | 147 | 148 | 149 |
| Over 57 pounds and not over 58 pounds..... | 443 | 446 | 449 | 452 | 455 |
| Over 58 pounds and not over 59 pounds..... | 451 | 454 | 457 | 460 | 462 |
| Over 59 pounds and not over 60 pounds..... | 458 | 461 | 464 | 467 | 470 |
| Over 60 pounds and not over 61 pounds..... | 465 | 468 | 471 | 474 | 477 |
| Over 61 pounds and not over 62 pounds..... | 473 | 476 | 479 | 482 | 485 |
| Over 62 pounds and not over 63 pounds..... | 480 | 483 | 486 | 489 | 492 |
| Over 63 pounds and not over 64 pounds..... | 487 | 490 | 494 | 497 | 500 |
| Over 64 pounds and not over 65 pounds..... | 494 | 498 | 501 | 504 | 507 |
| Over 65 pounds and not over 66 pounds..... | 502 | 505 | 508 | 512 | 515 |
| Over 66 pounds and not over 67 pounds..... | 509 | 512 | 516 | 519 | 522 |
| Over 67 pounds and not over 68 pounds..... | 516 | 520 | 523 | 527 | 530 |
| Over 68 pounds and not over 69 pounds..... | 524 | 527 | 531 | 534 | 537 |
| Over 69 pounds and not over 70 pounds..... | 531 | 534 | 538 | 541 | 545 |
| Over 70 pounds and not over 71 pounds..... | 538 | 542 | 545 | 549 | 552 |
| Over 71 pounds and not over 72 pounds..... | 546 | 549 | 553 | 556 | 560 |
| Over 72 pounds and not over 73 pounds..... | 553 | 557 | 560 | 564 | 567 |
| Over 73 pounds and not over 74 pounds..... | 560 | 564 | 568 | 571 | 575 |
| Over 74 pounds and not over 75 pounds..... | 567 | 571 | 575 | 579 | 582 |
| Over 75 pounds and not over 76 pounds..... | 575 | 579 | 582 | 586 | 590 |
| Over 76 pounds and not over 77 pounds..... | 582 | 586 | 590 | 594 | 597 |
| Over 77 pounds and not over 78 pounds..... | 589 | 593 | 597 | 601 | 605 |
| Over 78 pounds and not over 79 pounds..... | 597 | 601 | 605 | 609 | 612 |
| Over 79 pounds and not over 80 pounds..... | 604 | 608 | 612 | 616 | 620 |
| Over 80 pounds and not over 81 pounds..... | 611 | 615 | 619 | 623 | 627 |
| Over 81 pounds and not over 82 pounds..... | 619 | 623 | 627 | 631 | 635 |
| Over 82 pounds and not over 83 pounds..... | 626 | 630 | 634 | 638 | 642 |
| Over 83 pounds and not over 84 pounds..... | 633 | 637 | 642 | 646 | 650 |
| Over 84 pounds and not over 85 pounds..... | 640 | 645 | 649 | 653 | 657 |
| Over 85 pounds and not over 86 pounds..... | 648 | 652 | 656 | 661 | 665 |
| Over 86 pounds and not over 87 pounds..... | 655 | 659 | 664 | 668 | 672 |
| Over 87 pounds and not over 88 pounds..... | 662 | 667 | 671 | 676 | 680 |
| Over 88 pounds and not over 89 pounds..... | 670 | 674 | 679 | 683 | 687 |
| Over 89 pounds and not over 90 pounds..... | 677 | 681 | 686 | 690 | 695 |
| Over 90 pounds and not over 91 pounds..... | 684 | 689 | 693 | 698 | 702 |
| Over 91 pounds and not over 92 pounds..... | 692 | 696 | 701 | 705 | 710 |
| Over 92 pounds and not over 93 pounds..... | 699 | 704 | 708 | 713 | 717 |
| Over 93 pounds and not over 94 pounds..... | 706 | 711 | 716 | 720 | 725 |
| Over 94 pounds and not over 95 pounds..... | 713 | 718 | 723 | 728 | 732 |
| Over 95 pounds and not over 96 pounds..... | 721 | 726 | 730 | 735 | 740 |
| Over 96 pounds and not over 97 pounds..... | 728 | 733 | 738 | 743 | 747 |
| Over 97 pounds and not over 98 pounds..... | 735 | 740 | 745 | 750 | 755 |
| Over 98 pounds and not over 99 pounds..... | 743 | 748 | 753 | 758 | 762 |
| Over 99 pounds and not over 100 pounds..... | 750 | 755 | 760 | 765 | 770 |
| Over 100 pounds, pound rates..... | 750 | 755 | 760 | 765 | 770 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | | |
|--|--|-------------------------------|-----|-----|-----|-----|-----|
| | | 150 | 151 | 152 | 153 | 154 | 155 |
| Not over 1 pound..... | | 28 | 28 | 28 | 28 | 28 | 28 |
| Over 1 pound and not over 2 pounds..... | | 35 | 35 | 35 | 35 | 35 | 36 |
| Over 2 pounds and not over 3 pounds..... | | 43 | 43 | 43 | 43 | 43 | 43 |
| Over 3 pounds and not over 4 pounds..... | | 50 | 50 | 51 | 51 | 51 | 51 |
| Over 4 pounds and not over 5 pounds..... | | 58 | 58 | 58 | 58 | 59 | 59 |
| Over 5 pounds and not over 6 pounds..... | | 65 | 66 | 66 | 66 | 66 | 67 |
| Over 6 pounds and not over 7 pounds..... | | 73 | 73 | 74 | 74 | 74 | 75 |
| Over 7 pounds and not over 8 pounds..... | | 80 | 81 | 81 | 82 | 82 | 82 |
| Over 8 pounds and not over 9 pounds..... | | 88 | 88 | 89 | 89 | 90 | 90 |
| Over 9 pounds and not over 10 pounds..... | | 95 | 96 | 96 | 97 | 97 | 98 |
| Over 10 pounds and not over 11 pounds..... | | 103 | 104 | 104 | 105 | 105 | 106 |
| Over 11 pounds and not over 12 pounds..... | | 111 | 111 | 112 | 112 | 113 | 114 |
| Over 12 pounds and not over 13 pounds..... | | 118 | 119 | 119 | 120 | 121 | 121 |
| Over 13 pounds and not over 14 pounds..... | | 126 | 126 | 127 | 128 | 128 | 129 |
| Over 14 pounds and not over 15 pounds..... | | 133 | 134 | 135 | 135 | 136 | 137 |
| Over 15 pounds and not over 16 pounds..... | | 141 | 142 | 142 | 143 | 144 | 145 |
| Over 16 pounds and not over 17 pounds..... | | 148 | 149 | 150 | 151 | 152 | 153 |
| Over 17 pounds and not over 18 pounds..... | | 156 | 157 | 158 | 159 | 159 | 160 |
| Over 18 pounds and not over 19 pounds..... | | 163 | 164 | 165 | 166 | 167 | 168 |
| Over 19 pounds and not over 20 pounds..... | | 171 | 172 | 173 | 174 | 175 | 176 |
| Over 20 pounds and not over 21 pounds..... | | 179 | 180 | 181 | 182 | 183 | 184 |
| Over 21 pounds and not over 22 pounds..... | | 186 | 187 | 188 | 189 | 190 | 192 |
| Over 22 pounds and not over 23 pounds..... | | 194 | 195 | 196 | 197 | 198 | 199 |
| Over 23 pounds and not over 24 pounds..... | | 201 | 202 | 204 | 205 | 206 | 207 |
| Over 24 pounds and not over 25 pounds..... | | 209 | 210 | 211 | 212 | 214 | 215 |
| Over 25 pounds and not over 26 pounds..... | | 216 | 218 | 219 | 220 | 221 | 223 |
| Over 26 pounds and not over 27 pounds..... | | 224 | 225 | 227 | 228 | 229 | 231 |
| Over 27 pounds and not over 28 pounds..... | | 231 | 233 | 234 | 236 | 237 | 238 |
| Over 28 pounds and not over 29 pounds..... | | 239 | 240 | 242 | 243 | 245 | 246 |
| Over 29 pounds and not over 30 pounds..... | | 246 | 248 | 249 | 251 | 252 | 254 |
| Over 30 pounds and not over 31 pounds..... | | 254 | 256 | 257 | 259 | 260 | 262 |
| Over 31 pounds and not over 32 pounds..... | | 262 | 263 | 265 | 266 | 268 | 270 |
| Over 32 pounds and not over 33 pounds..... | | 269 | 271 | 272 | 274 | 276 | 277 |
| Over 33 pounds and not over 34 pounds..... | | 277 | 278 | 280 | 282 | 283 | 285 |
| Over 34 pounds and not over 35 pounds..... | | 284 | 286 | 288 | 289 | 291 | 293 |
| Over 35 pounds and not over 36 pounds..... | | 292 | 294 | 295 | 297 | 299 | 301 |
| Over 36 pounds and not over 37 pounds..... | | 299 | 301 | 303 | 305 | 307 | 309 |
| Over 37 pounds and not over 38 pounds..... | | 307 | 309 | 311 | 313 | 314 | 316 |
| Over 38 pounds and not over 39 pounds..... | | 314 | 316 | 318 | 320 | 322 | 324 |
| Over 39 pounds and not over 40 pounds..... | | 322 | 324 | 326 | 328 | 330 | 332 |
| Over 40 pounds and not over 41 pounds..... | | 330 | 332 | 334 | 336 | 338 | 340 |
| Over 41 pounds and not over 42 pounds..... | | 337 | 339 | 341 | 343 | 345 | 348 |
| Over 42 pounds and not over 43 pounds..... | | 345 | 347 | 349 | 351 | 353 | 355 |
| Over 43 pounds and not over 44 pounds..... | | 352 | 354 | 357 | 359 | 361 | 363 |
| Over 44 pounds and not over 45 pounds..... | | 360 | 362 | 364 | 366 | 369 | 371 |
| Over 45 pounds and not over 46 pounds..... | | 367 | 370 | 372 | 374 | 376 | 379 |
| Over 46 pounds and not over 47 pounds..... | | 375 | 377 | 380 | 382 | 384 | 387 |
| Over 47 pounds and not over 48 pounds..... | | 382 | 385 | 387 | 390 | 392 | 394 |
| Over 48 pounds and not over 49 pounds..... | | 390 | 392 | 395 | 397 | 400 | 402 |
| Over 49 pounds and not over 50 pounds..... | | 397 | 400 | 402 | 405 | 407 | 410 |
| Over 50 pounds and not over 51 pounds..... | | 405 | 408 | 410 | 413 | 415 | 418 |
| Over 51 pounds and not over 52 pounds..... | | 413 | 415 | 418 | 420 | 423 | 426 |
| Over 52 pounds and not over 53 pounds..... | | 420 | 423 | 425 | 428 | 431 | 433 |
| Over 53 pounds and not over 54 pounds..... | | 428 | 430 | 433 | 436 | 438 | 441 |
| Over 54 pounds and not over 55 pounds..... | | 435 | 438 | 441 | 443 | 446 | 449 |
| Over 55 pounds and not over 56 pounds..... | | 443 | 446 | 448 | 451 | 454 | 457 |
| Over 56 pounds and not over 57 pounds..... | | 450 | 453 | 456 | 459 | 462 | 465 |

Wells Fargo & Company Express—Continued.

Charges are in cents.

| | | Merchandise rate table number | | | | | |
|--|-------|-------------------------------|-----|-----|-----|-----|-----|
| | | 150 | 151 | 152 | 153 | 154 | 155 |
| Over 57 pounds and not over 58 pounds | ----- | 458 | 461 | 464 | 467 | 469 | 472 |
| Over 58 pounds and not over 59 pounds | ----- | 465 | 468 | 471 | 474 | 477 | 480 |
| Over 59 pounds and not over 60 pounds | ----- | 473 | 476 | 479 | 482 | 485 | 488 |
| Over 60 pounds and not over 61 pounds | ----- | 481 | 484 | 487 | 490 | 493 | 496 |
| Over 61 pounds and not over 62 pounds | ----- | 488 | 491 | 494 | 497 | 500 | 504 |
| Over 62 pounds and not over 63 pounds | ----- | 496 | 499 | 502 | 505 | 508 | 511 |
| Over 63 pounds and not over 64 pounds | ----- | 503 | 506 | 510 | 513 | 516 | 519 |
| Over 64 pounds and not over 65 pounds | ----- | 511 | 514 | 517 | 520 | 524 | 527 |
| Over 65 pounds and not over 66 pounds | ----- | 518 | 522 | 525 | 528 | 531 | 535 |
| Over 66 pounds and not over 67 pounds | ----- | 526 | 529 | 533 | 536 | 539 | 543 |
| Over 67 pounds and not over 68 pounds | ----- | 533 | 537 | 540 | 544 | 547 | 550 |
| Over 68 pounds and not over 69 pounds | ----- | 541 | 544 | 548 | 551 | 555 | 558 |
| Over 69 pounds and not over 70 pounds | ----- | 548 | 552 | 555 | 559 | 562 | 566 |
| Over 70 pounds and not over 71 pounds | ----- | 556 | 560 | 563 | 567 | 570 | 574 |
| Over 71 pounds and not over 72 pounds | ----- | 564 | 567 | 571 | 574 | 578 | 582 |
| Over 72 pounds and not over 73 pounds | ----- | 571 | 575 | 578 | 582 | 586 | 589 |
| Over 73 pounds and not over 74 pounds | ----- | 579 | 582 | 586 | 590 | 593 | 597 |
| Over 74 pounds and not over 75 pounds | ----- | 586 | 590 | 594 | 597 | 601 | 605 |
| Over 75 pounds and not over 76 pounds | ----- | 594 | 598 | 601 | 605 | 609 | 613 |
| Over 76 pounds and not over 77 pounds | ----- | 601 | 605 | 609 | 613 | 617 | 621 |
| Over 77 pounds and not over 78 pounds | ----- | 609 | 613 | 617 | 621 | 624 | 628 |
| Over 78 pounds and not over 79 pounds | ----- | 616 | 620 | 624 | 628 | 632 | 636 |
| Over 79 pounds and not over 80 pounds | ----- | 624 | 628 | 632 | 636 | 640 | 644 |
| Over 80 pounds and not over 81 pounds | ----- | 632 | 636 | 640 | 644 | 648 | 652 |
| Over 81 pounds and not over 82 pounds | ----- | 639 | 643 | 647 | 651 | 655 | 660 |
| Over 82 pounds and not over 83 pounds | ----- | 647 | 651 | 655 | 659 | 663 | 667 |
| Over 83 pounds and not over 84 pounds | ----- | 654 | 658 | 663 | 667 | 671 | 675 |
| Over 84 pounds and not over 85 pounds | ----- | 662 | 666 | 670 | 674 | 679 | 683 |
| Over 85 pounds and not over 86 pounds | ----- | 669 | 674 | 678 | 682 | 686 | 691 |
| Over 86 pounds and not over 87 pounds | ----- | 677 | 681 | 686 | 690 | 694 | 699 |
| Over 87 pounds and not over 88 pounds | ----- | 684 | 689 | 693 | 698 | 702 | 706 |
| Over 88 pounds and not over 89 pounds | ----- | 692 | 696 | 701 | 705 | 710 | 714 |
| Over 89 pounds and not over 90 pounds | ----- | 699 | 704 | 708 | 713 | 717 | 722 |
| Over 90 pounds and not over 91 pounds | ----- | 707 | 712 | 716 | 721 | 725 | 730 |
| Over 91 pounds and not over 92 pounds | ----- | 715 | 719 | 724 | 728 | 733 | 738 |
| Over 92 pounds and not over 93 pounds | ----- | 722 | 727 | 731 | 736 | 741 | 745 |
| Over 93 pounds and not over 94 pounds | ----- | 730 | 734 | 739 | 744 | 748 | 753 |
| Over 94 pounds and not over 95 pounds | ----- | 737 | 742 | 747 | 751 | 756 | 761 |
| Over 95 pounds and not over 96 pounds | ----- | 745 | 750 | 754 | 759 | 764 | 769 |
| Over 96 pounds and not over 97 pounds | ----- | 752 | 757 | 762 | 767 | 772 | 777 |
| Over 97 pounds and not over 98 pounds | ----- | 760 | 765 | 770 | 775 | 779 | 784 |
| Over 98 pounds and not over 99 pounds | ----- | 767 | 772 | 777 | 782 | 787 | 792 |
| Over 99 pounds and not over 100 pounds | ----- | 775 | 780 | 785 | 790 | 795 | 800 |
| Over 100 pounds, pound rates | ----- | 775 | 780 | 785 | 790 | 795 | 800 |

DECISION No. 842.

G. M. SIMPSON, DOING BUSINESS AS THE G. M. SIMPSON LUMBER COMPANY; PATTEN & DAVIES LUMBER COMPANY; OLSON LUMBER COMPANY, AND THE SOUTH PASADENA LUMBER COMPANY,

vs.

SOUTHERN PACIFIC COMPANY AND THE SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 363.

SAN GABRIEL VALLEY LUMBER COMPANY

vs.

SOUTHERN PACIFIC COMPANY AND THE PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 375.

Decided August 2, 1913.

Supplemental order establishing a minimum carload weight of 40,000 pounds in connection with rate of six cents on lumber between San Pedro and Alhambra, San Gabriel and South Pasadena.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTAL ORDER.

On June 25, 1913, the Commission issued its order in these cases and prescribed as a just and reasonable rate for the transportation of lumber and forest products from San Pedro to Alhambra, San Gabriel and South Pasadena a rate of 6 cents per one hundred pounds.

It was the intention of this Commission to provide in connection with this rate a minimum carload weight of 40,000 pounds, the same as is now in effect on lumber, carloads, between San Pedro and Los Angeles, which was established in compliance with the order of the Commission in Case No. 115, and the omission of such a minimum of 40,000 pounds in the original order of the Commission was unintentional, and it is the purpose of this order to correct the original order in this regard.

It is therefore ordered that the Southern Pacific Company and the Pacific Electric Railway Company be and they are hereby authorized to establish a minimum carload weight of 40,000 pounds in connection

with the rate of 6 cents per one hundred pounds for the transportation of lumber and forest products, carloads, from San Pedro to Alhambra, San Gabriel and South Pasadena.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION No. 843.

CITY LUMBER COMPANY, ELDER BUILDING MATERIAL
COMPANY, HIGMAN LUMBER COMPANY, PACIFIC LIME
COMPANY,

vs.

SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD
COMPANY AND ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY.

Case No. 392.

Decided August 2, 1913.

Supplemental order establishing a minimum carload weight of 40,000 pounds, in connection with rate of \$1.00 per ton on lumber, between East San Pedro and East Wilmington to points on the Santa Fe Railway west of Nadeau Park.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

SUPPLEMENTAL ORDER.

On July 19, 1913, the Commission issued its order in this case and prescribed as a just and reasonable rate for the transportation of lumber and forest products from East San Pedro and East Wilmington via the San Pedro, Los Angeles and Salt Lake Railroad Company to Hobart, thence via the Atchison, Topeka and Santa Fe Railway Company to points west of Nadeau Park to and including yard of the Elder Building Material Company, a rate of 5 cents per 100 pounds.

It was the intention of this Commission to provide in connection with this rate a minimum carload weight of 40,000 pounds, the same as is now in effect on lumber, carloads, between San Pedro and Los Angeles, which was established in compliance with the order of the Commission in Case No. 115, and the omission of such a minimum of 40,000 pounds

in the original order of the Commission was unintentional, and it is the purpose of this order to correct the original order in this regard.

It is therefore ordered that the San Pedro, Los Angeles and Salt Lake Railroad Company and the Atchison, Topeka and Santa Fe Railway Company (Coast Lines) be and they are hereby authorized to establish a minimum carload weight of 40,000 pounds in connection with the rate of \$1.00 per ton for the transportation of lumber and forest products, carloads, from East San Pedro and East Wilmington to points on the Atchison, Topeka and Santa Fe Railway Company (Coast Lines) west of Nadeau Park to and including the yard of the Elder Building Material Company, via Hobart, California.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION No. 844.

HIGMAN LUMBER COMPANY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, AND THE SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY

Case No. 393.

Decided August 2, 1913.

Supplemental order establishing a minimum carload weight of 40,000 pounds, in connection with rate of 6 cents on lumber, between East San Pedro and East Wilmington to Florence avenue.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTAL ORDER.

On July 19, 1913, the Commission issued an order in this case and prescribed as a just and reasonable rate for the transportation of lumber and lumber products from East San Pedro and East Wilmington to Florence avenue via the San Pedro, Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company a rate of 6 cents per one hundred pounds.

It was the intention of this Commission to provide in connection with this rate a minimum carload weight of 40,000 pounds, the same as is now in effect on lumber, carloads, between San Pedro and Los Angeles, which was established in compliance with the order of the Commission in Case No. 115, and the omission of such a minimum of 40,000 pounds in the original order of the Commission was unintentional, and it is the purpose of this order to correct the original order in this regard.

It is therefore ordered that the San Pedro, Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company be and are hereby authorized to establish minimum carload weight of 40,000 pounds in connection with the rate of 6 cents per hundred pounds for the transportation of lumber and forest products, carloads, from East San Pedro and East Wilmington to Florence avenue.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION NO. 845.

GRAYSON-OWEN COMPANY ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 295.

Decided August 2, 1913.

Held, Complainants awarded reparation in the sum of \$153.75, representing the difference between the through rate and combination of locals on carload shipments of cattle.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

SUPPLEMENTAL OPINION.

On October 3, 1912, the Commission made an order in this proceeding awarding reparation to complainants as follows:

1. Grayson-Owen Company was awarded reparation to the amount of \$16.45 upon charges collected upon carload shipments of cattle moving between July 12, 1910, and August 26, 1910, on the ground that the rate collected for these shipments was found to be unreasonable.

2. Grayson-Owen Company was awarded reparation to the amount of \$47.02 upon charges collected upon carload shipments of cattle moving between December 28, 1910, and December 22, 1911, on the ground that the rate charged was in excess of a combination of intermediate rates, the reparation being awarded on account of a violation of Rule 7a, Tariff Circular No. 1, C. R. C.

3. Cames and Casalet were awarded reparation to the amount of \$91.55 upon charges collected upon carload shipments of cattle moving between April 1, 1910, and November 2, 1910, on the ground that the rate collected for these shipments was found to be unreasonable.

4. Cames and Casalet were awarded reparation to the amount of \$106.73 upon charges collected upon carload shipments of cattle moving between December 2, 1910, and October 30, 1911, on the ground that the rate collected was in excess of a combination of intermediate rates, the reparation being awarded on account of a violation of Rule 7a, Tariff Circular No. 1, C. R. C.

This Commission in its decision in Case No. 283—*Scott, Magner & Miller vs. Western Pacific Railway Company*—rendered on April 15, 1913, decided that prior to the amendment of section 21 of article XII of the constitution of this State on October 10, 1911, there was no substantive right to reparation on the ground that the rate collected was unreasonable. It becomes necessary, therefore, to amend the order made in this proceeding on October 3, 1912, in so far as that order is inconsistent with the conclusions reached by the Commission in its decision in Case No. 283.

It will be noted that in the order already made in this proceeding reparation was awarded to Grayson-Owen Company to the amount of \$16.45, and to Cames and Casalet to the amount of \$91.55, upon the ground that the rate charged was unreasonable. It will be noted also that the reparation so granted involved shipments, all of which moved, and the charges therefor were collected, prior to October 10, 1911. The award of reparation in these two instances is inconsistent with the Commission's decision in Case No. 283, and the Commission's order in this proceeding will, therefore, have to be amended so as to eliminate therefrom these two items of reparation.

The Commission's order also awarded reparation to Grayson-Owen Company to the amount of \$47.02 and to Cames and Casalet to the amount of \$106.73, on the ground that the rate collected was in violation of Rule 7a, Tariff Circular No. 1, C. R. C., effective November 21, 1910, and reading as follows:

"In every instance where a class or commodity rate is named in a tariff between specified points, the lowest of such rates is the lawful rate; provided, that if some combination of class or commodity rates or class and commodity rates is found to be lower

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than the through rate, the lower combination of rates shall apply and the carrier shall immediately make its through rate to correspond to the lower combination of rates. It being the intention to give the shipper the advantage of the lowest possible rate."

This rule prescribed the legal rates which the carriers were thereafter compelled to charge. Any rate other than the one which conformed to this rule thereby became an unlawful rate. It is apparent that if in any instance a rate higher than the one prescribed by this rule was collected, the rate collected would amount to an overcharge, and the shipper paying the rate would become entitled to reparation to the amount of the difference between the rate collected and the rate prescribed by Rule 7a. In so far as the Commission's order in this proceeding awarded reparation because rates had been collected in excess of the rates prescribed by Rule 7a, the order is correct.

The parties to this proceeding have stipulated that the order heretofore made in this proceeding may be amended without further hearing, and I submit herewith the following form of order:

SUPPLEMENTAL ORDER.

It is hereby ordered that defendant be and it hereby is directed to pay to Grayson-Owen Company the sum of \$47.02, in accordance with Statement No. 2 attached to the order made by this Commission in this proceeding on October 3, 1912, together with interest at the rate of 7 per cent computed on each of the items of overcharge specified in said statement, from the date of the payment thereof.

It is further ordered that defendant be and it hereby is directed to pay to F. Cames and Joseph Casalet, doing business under the firm name of Cames and Casalet, the sum of \$106.73, in accordance with Statement No. 4 attached to the order made by this Commission in this proceeding on October 3, 1912, together with interest at the rate of 7 per cent computed on each of the items of overcharge specified in said statement from the date of the payment thereof.

It is further ordered that the complaint in this proceeding be and the same hereby is dismissed, except as to the reparation awarded complainants in this supplemental order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION No. 846.

SCOTT, MAGNER & MILLER ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 228.

Decided August 2, 1913.

Held, Complainants not entitled to reparation in sum of \$2,150.30 on carload shipments of hay moving prior to October 10, 1911, the reparation being based on allegation that rate collected was unreasonable.

J. O. Bracken, for Complainants.*George D. Squires*, for Defendants.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

SUPPLEMENTAL OPINION.

On June 14, 1912, the Commission made an order in this proceeding directing defendant to pay to complainants reparation to the amount of \$2,150.30. The reparation was awarded upon alleged violations of the long and short haul clause of the constitution of this State and of the Wright Act, in the collection of charges upon carload shipments of hay which moved from points of origin west of Tracy on the Niles and Livermore line destined to Oakland and San Francisco. The claim to reparation was based on an alleged violation of the long and short haul clause, in that the rates collected were greater than the rate from Tracy to the point of destination.

On April 15, 1913, the Commission rendered its decision in Case No. 283—*Scott, Magner & Miller et al. vs. Western Pacific Railway Company*—in which decision the Commission announced its conclusions upon the limitation of its power to award reparation. On April 29, 1913, the Commission reopened the present case for the purpose of considering it in the light of the conclusions announced by the Commission in its decision in Case No. 283. A further hearing in the present case was had on June 3, 1913, at which time the parties were given until July 22, 1913, in which to file briefs.

The shipments in this case moved between January 16, 1910, and November 25, 1911. This Commission has already decided that every claim arising prior to February 10, 1910, has been barred by the statute of limitations. I will consider, therefore, only such claims as arose subsequent to this date.

Reparation is requested in this case upon an alleged violation of the long and short haul clause contained in section 21 of article XII of the constitution of this State prior to its amendment on October 10, 1911, and under the long and short haul provisions of the Wright Act. This Commission's decision in Case No. 283, to which reference has already been made, gives a complete analysis of the effect of the long and short haul clause in the constitution and in the Wright Act. It was there decided that the long and short haul clause in the constitution, when construed together with other provisions in the constitution announcing that the rates established by this Commission should be "deemed conclusively just and reasonable," must be regarded as binding upon the carriers only until such time as the Commission in any particular instance actually established the rates. The records of the Commission show that on June 11, 1909, the Commission established the rates to be charged by defendant for carrying hay between the points involved in this proceeding. These rates thereupon became "conclusively just and reasonable," and the provisions of the long and short haul clause in the constitution and in the Wright Act could not be made the basis of a claim for reparation upon charges which were collected in conformity with these rates.

On October 10, 1911, section 21 of article XII of the constitution of this State was amended to read in part as follows:

"It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route than the aggregate of the intermediate rates; *provided, however*, that upon application to the Railroad Commission provided for in this constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property and the Railroad Commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul."

Thereafter the railroads filed with this Commission applications for permission to continue existing deviations from the long and short haul clause of the constitution, and the Commission on February 15, 1912, issued its order in Case No. 214 authorizing the railroads to continue these deviations until the Commission could determine definitely the instances, if any, in which it will permit deviations to continue to be made.

I am of the opinion that no claim to reparation can now be asserted under the long and short haul clause of the constitution for an alleged violation thereof occurring subsequent to October 10, 1911.

It becomes necessary now to determine whether or not the "conclusiveness" of the rates established by this Commission on June 11, 1909, has in any way been impaired during the period up to October 10, 1911, for if the rates so established remained "conclusively just and reasonable" during this period, it is clear that the complainants are not entitled to reparation upon charges collected in conformity with these rates. In this connection, I wish to draw attention to section 17 of the Stetson-Eshleman Act, which went into effect on February 10, 1911. Under the provisions of this section, it was made the duty of the railroads to file tariffs with the Commission, and it made it the duty of the Commission to establish the rates so filed, or others in lieu thereof, within at least sixty days from the date the rates were filed. Under the provisions of this section the defendant company filed a tariff which included the rates covering the shipment of hay between the points involved in this proceeding. On June 2, 1911, the Commission passed a resolution approving such of the rates contained in the tariff so filed as were not in violation "of the provisions of the constitution or statutes of California."

It is necessary, therefore, to determine the effect which this procedure provided in section 17 of the Stetson-Eshleman Act had upon the "conclusiveness" of the rates theretofore established by the Commission. I am of the opinion that the Stetson-Eshleman Act contemplated that the Commission should overhaul all the rates of all the railroads in this State and to establish these rates anew. The rates theretofore established by the Commission continued to be the legal rates until the Commission took action on the schedule of rates filed by the railroads in accordance with the provisions of the Stetson-Eshleman Act and designed to supersede the existing schedule. When the Commission acted upon any particular schedule of rates the entire schedule theretofore in effect was superseded, even though the Commission did not in fact approve every one of the rates in the new schedule. In this particular case, the rates established by the Commission on June 11, 1909, covering movements of hay between the points involved in this proceeding, continued to be the legal rates until on June 2, 1911, when the Commission took action on the schedule of rates filed by the defendant in accordance with the provisions of the Stetson-Eshleman Act and designed to supersede the existing rates upon shipments of hay between the points involved in this proceeding. The Commission, however, on June 2, 1911, did not approve all the rates which were filed, but only such as did not violate "any of the provisions of the constitution or statutes of the State of California."

If the rates collected by the defendant company upon the shipments involved in this proceeding moving between June 2, 1911, and October 10, 1911, are in violation of any of the provisions of the constitution or statutes of this State, the complainants are entitled to reparation. The complainants have based their right to reparation upon the provisions of the long and short haul clause of the constitution, there being no long and short haul provision in the Stetson-Eshleman Act. The long and short haul clause of the constitution in effect between June 2, 1911, and October 10, 1911, is found in section 21 of article XII of the constitution, and reads as follows:

“Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing or port, at charges not exceeding the charges for the transportation of persons and property of the same class in the same direction, *to any more distant station, port or landing.*”

It will be noted that this provision includes only such cases as involve a lower rate “to a more distant station, port or landing.” It is not sufficient that the case involves a lower rate “*from* a more distant station, port or landing.” Complainants rely in this proceeding on the fact that the rate from points intermediate between Tracy and San Francisco is less than the rate from Tracy to San Francisco, *i. e.*, less than the rate “*from* a more distant station, port or landing.”

The facts of this proceeding do not, therefore, entitle complainants to an award of reparation under the long and short haul provisions of the constitution.

Complainants have based their right to reparation, in part, upon alleged violations of Rule 7a, C. R. C. Tariff Circular No. 1, effective November 21, 1910, reading as follows:

“In every instance where a class or commodity rate is named in a tariff between specified points, the lowest of such rates is the lawful rate; *provided*, that if some combination of class or commodity rates or class and commodity rates is found to be lower than the through rate, the lower combination of rates shall apply and the carrier shall immediately make its through rate correspond to the lower combination of rates. It being the intention to give the shipper the advantage of the lowest possible rate.”

The evidence introduced in this case, and the argument presented in the briefs were directed, however, solely to the alleged violations of the long and short haul clause of the constitution, and the provisions of Rule 7a were resorted to merely in determining the rates upon which the alleged violations of the long and short haul clause of the constitution should be based. Complainants did not in this proceeding direct their attention to any instance in which they were entitled to an award of reparation solely upon the provisions of Rule 7a. It becomes unnecessary, therefore, to determine in this proceeding whether com-

plainants have any right to reparation based solely upon the provisions of Rule 7a.

I recommend, therefore, that the complaint be dismissed and submit the following form of order:

ORDER.

The above entitled proceeding having come on regularly for hearing, and it appearing that the complainants are not entitled to the reparation requested,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION No. 847.

LIVERMORE WAREHOUSE COMPANY ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 296.

Decided August 2, 1913.

Complainant asks reparation on shipments of hay moving between points west of Tracy to Oakland, San Francisco and San Jose.

Held, Complainant not entitled to reparation, complaint dismissed.

J. O. Bracken, for Complainants.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is a complaint for reparation of charges collected on carload shipments of hay originating at points west of Tracy on the Niles and Livermore line of defendant and destined to Oakland, San Francisco and San Jose. The shipments involved in this proceeding moved between November 15, 1910, and June 25, 1912. The complaint asks that reparation be awarded to the amount of \$3,614.61, this amount being the difference between the charges collected and the rate from Tracy to the points of destination.

The facts of this case and the allegations in the complaint are practically similar to those presented in Case No. 228, being the case of *Scott, Magner & Miller et al. vs. Southern Pacific Company*. These two cases were consolidated for hearing, and I shall refer to the supplemental opinion rendered in Case No. 228 on August 2, 1913, as deciding most of the questions involved in this proceeding.

It will be noted that the claim to reparation in this proceeding is based upon an alleged violation of the long and short haul clause found in section 21 of article XII of the constitution of this State, prior to its amendment on October 10, 1911. The long and short haul clause of the constitution does not include a case where the lower rate is "from a more distant point." The claim to reparation in this proceeding is based upon the fact that the rate from Tracy to point of destination is lower than the rate from intermediate points to destination. The claim is obviously based upon a lower rate "from a more distant point," and so is not included within the provisions of the long and short haul clause of the constitution. This conclusion is explained in detail in the opinion in Case No. 228.

I recommend that the complaint in this proceeding, as far as it is based upon the alleged violations of the long and short haul clause of the constitution, be dismissed.

The complaint also alleges that the rates under which the shipments moved in this proceeding were unreasonable, and asks reparation upon this ground. Of course, this allegation would apply only to charges collected subsequent to October 10, 1911, for prior to the amendment of the constitution of this State, on October 10, 1911, the rates fixed by the Commission were conclusively just and reasonable. I am of the opinion, however, that the complainants in this case have failed to substantiate their allegation that the rates under which the shipments moved in this proceeding were unreasonably high. Complainants introduced testimony to show that the conditions surrounding a "Class C" rate upon hay of \$1.15 per ton from Tracy to Oakland, San Francisco and San Jose were not different from conditions surrounding shipments at a greater rate from points west of Tracy to the same points of destination. In this way complainants endeavored to show that there was no justification for a higher intermediate rate.

I desire to call attention to the fact that the Commission in its decision in the San Joaquin rate case permitted an increase in the "Class C" rate from Tracy to the same points of destination from \$1.15 to \$1.55, and that the lowest rate now existing upon shipments of hay between these points is the commodity rate of \$1.45 per ton. The Commission found that the rate of \$1.15, upon which complainants rely, was unreasonably low. Of course, complainants can not establish that an existing

rate is unreasonably high solely by comparing this rate with a rate which has been found to be unreasonably low.

I recommend, therefore, that in this particular also the complaint be dismissed, and submit herewith the following form of order:

ORDER.

The above entitled proceeding having come on regularly for hearing, and it appearing that the complainants are not entitled to the reparation requested,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION No. 848.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS OF THE FACE VALUE OF SIX HUNDRED AND THIRTY-NINE THOUSAND DOLLARS.

Application No. 590.

Decided August 7, 1913.

Supplemental order permitting applicant to issue additional bonds of the face value of \$102,000.00 subject to certain conditions.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SUPPLEMENTAL OPINION.

This is a supplemental application for authority to issue bonds of the face value of \$102,000.00.

On June 30, 1913, this Commission rendered its opinion and order in the above entitled proceeding authorizing applicant to issue bonds of the face value of \$180,000.00 on expenditures incurred prior to April 30, 1913, and also bonds of the face value of \$459,000.00 on expenditures to be incurred during 1913 subsequent to April 30, 1913. In connection with the latter issue, applicant presented a statement to be found in

revised Schedule No. 4, of the moneys which it would expend for capital purposes during the remainder of the year 1913, totaling \$612,487.09. The Commission authorized the issue of bonds of the face value of \$459,000.00 as against this expenditure on condition that applicant should, from time to time, present verified statements showing the amounts of money which it had expended subsequent to April 30, 1913, for capital expenditures, together with the price at which it expected to be able to sell its bonds, whereupon the Commission would, from time to time, make supplemental orders authorizing the issue of bonds of a face value not to exceed 75 per cent of the moneys properly expended by applicant for such capital expenditures, and designating the minimum price at which said bonds may be sold.

Applicant now files its supplemental application showing that during the months of May and June, 1913, it incurred expenditures for capital purposes amounting to \$143,377.73, and as against this expenditure applicant desires authority to issue bonds in the amount of \$102,000.00.

A summary of the estimated expenditures from May 1, 1913, to December 31, 1913, of the actual expenditures during May and June, 1913, and of the balance to be expended, is attached to the application and reads as follows:

| | Estimated expenditures May 1, 1913, to December 31, 1913 | Actual expenditures May and June, 1913 | Balance to be expended |
|--|--|---|------------------------------|
| 1. Steam power plant equipment..... | \$64,500 00 | \$6,056 03 | \$58,443 97 |
| 2. Electric distribution system..... | 164,344 39 | 49,586 54 | 114,757 85 |
| 3. Gas plant buildings and general struc- tures | 10,989 00 | 4,910 34 | 6,078 66 |
| 1. Gas generators | 29,910 24 | 10,424 43 | 19,515 81 |
| 5. Purification appliances | 22,667 79 | 9,529 21 | 13,138 58 |
| 6. Water gas sets and accessories..... | 7,000 00 | ----- | 7,000 00 |
| 7. Accessory equipment at works..... | 35,513 48 | 14,662 25 | 20,851 23 |
| 8. Gas distribution | 170,235 40 | 17,601 83 | 152,633 57 |
| 9. Gas service | 58,035 60 | 9,046 34 | 48,989 26 |
| 10. Gas meters | 21,821 61 | 14,309 95 | 7,511 66 |
| 11. Miscellaneous distribution equipment... | 10,273 26 | 530 08 | 9,743 18 |
| 12. General structures | 828 83 | 278 16 | 550 67 |
| 13. General shop equipment..... | 4,917 12 | 888 51 | 4,028 61 |
| 14. Contingencies | 11,420 37 | 5,554 06 | 5,866 31 |
| | \$612,487 09 | \$143,377 73 | \$469,109 36 |

I find that the purposes for which expenditures were incurred during the months of May and June, 1913, come within the general purposes specified in applicant's said revised Schedule No. 4, and within the purposes for which the Commission stated that it would, from time to time, make supplemental orders authorizing the issue of bonds.

Applicant alleges in its supplemental application that it expects to be able to sell its bonds for not less than 85 per cent of their face value.

I recommend that the application be granted and submit the following form of supplemental order:

SUPPLEMENTAL ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for the consent of the Commission to the issuance by said company of bonds of the face value of \$102,000.00, said bonds to be included within the general authorization of \$639,000.00 heretofore given by this Commission's order in the above entitled proceeding dated June 30, 1913, said bonds to be payable on the first day of March, 1939, and to bear interest at the rate of five per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all of the property of the company; and the Commission finding that the moneys to be procured by the issue of said bonds are necessary to and reasonably required by said company for the discharge and refunding of obligations heretofore incurred for proper capital expenditures, and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego Consolidated Gas and Electric Company of \$102,000.00 face value of bonds of said company bearing numbers 3810 to 3911, inclusive, maturing the first day of March, 1939, redeemable on March 1, 1914, or on any interest date thereafter, at par, accrued interest and a premium of five per cent on the principal thereof, and to bear interest at five per cent per annum, payable semiannually, under and in pursuance of the terms of the trust deed or mortgage heretofore and on the first day of March, 1909, made and executed by said San Diego Consolidated Gas and Electric Company to Harris Trust and Savings Bank and Los Angeles Trust Company, now known as Los Angeles Trust and Savings Bank, as trustees, upon the conditions following and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said bonds hereby authorized so as to net said company not less than eighty-five per cent of the par value of the principal thereof, besides interest accrued thereon.

2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds only for the purpose of discharging and refunding indebtedness incurred for capital expenditures made during the months of May and June, 1913, as those expenditures are set out in the opinion which precedes this order.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the

company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. San Diego Consolidated Gas and Electric Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustees under its said trust deed, on which statements or certificates it expects to receive from the trustees the bonds hereby authorized to be issued.

5. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the thirtieth day of June, 1914.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of August, 1913.

Decision No. 849, grade crossing; not printed. See end of volume.

DECISION No. 850.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF A GAS DISTRIBUTING SYSTEM IN THE CITY OF CHINO, CALIFORNIA, AND FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A GAS DISTRIBUTING SYSTEM UNDER A CERTAIN FRANCHISE GRANTED BY ORDINANCE NO. 53 OF THE CITY OF CHINO, CALIFORNIA.

Application No. 604.

Decided August 6, 1913.

Applicant asks Commission for an order authorizing the construction of a gas distributing system in the city of Chino and for permission to operate under a franchise granted by said city.

Held, Application granted; applicant to fix a rate for gas not to exceed \$1.25 per thousand feet.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern California Edison Company for a certificate that public convenience and necessity require the construction by applicant of a gas distributing system in the city of Chino, and for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted applicant by Ordinance No. 53 of the city of Chino.

As provided in Application No. 605, this day granted, it is proposed to pipe gas from the plant of applicant in the city of Pomona through certain highways in the county of San Bernardino to the city of Chino, and the authorization herein requested covers the distribution of said gas in the city of Chino. As set forth in the order this day made in Application No. 605, applicant was authorized in Order No. 350 to issue bonds for certain purposes, among which was the installation of the plant herein contemplated.

No utility serves the city of Chino with gas at the present time and no opposition has been made to the granting of this application.

The citizens of Chino will be greatly benefited by the installation of a gas distributing system in said city, and I recommend that the application be granted, subject to the same condition as laid down in the order in Application No. 605, to wit, that the maximum price to be charged consumers for gas in the city of Chino be \$1.25 per thousand feet.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Southern California Edison Company for a certificate that public convenience and necessity require the construction of a gas distributing system in the city of Chino, and for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted applicant by Ordinance No. 53 of the city of Chino, California; and a public hearing having been held, and it appearing to the Commission that public convenience and necessity will be served by the granting of said application,

It is hereby ordered by the Railroad Commission of the State of California that public convenience and necessity require the construction of a gas distributing system by Southern California Edison Company in the city of Chino, as described in a certain franchise granted by Ordinance No. 53 of the city of Chino, a copy of which said ordinance is on file with the application herein, marked "Exhibit C," to which reference is hereby made; and

It is hereby further ordered that public convenience and necessity require the exercise of rights and privileges by Southern California Edison Company under said franchise just above described.

This order is granted upon the following condition, not otherwise: Said Southern California Edison Company, or its successors, shall distribute gas in the territory herein mentioned at a price to consumers of not to exceed \$1.25 per thousand feet.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of August, 1913.

DECISION No. 851.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF A GAS DISTRIBUTING SYSTEM IN THE COUNTY OF SAN BERNARDINO, CALIFORNIA, AND FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A GAS DISTRIBUTING SYSTEM UNDER A CERTAIN FRANCHISE GRANTED BY ORDINANCE NO. 153 OF THE COUNTY OF SAN BERNARDINO, CALIFORNIA.

Application No. 605.

Decided August 6, 1913.

Applicant asks Commission for an order authorizing the construction of a gas distributing system in the county of San Bernardino and for permission to operate under a franchise granted by said county.

Held, Application granted; applicant to fix a rate for gas not to exceed \$1.25 per thousand feet.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern California Edison Company for a certificate that public convenience and necessity require the construction of a gas distributing system in the county of San Bernardino, and for a

certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted by the board of supervisors of said San Bernardino County.

Applicant is a large producer and distributor of gas and electricity in the southern part of California. The territory covered by it and its financial condition are set out in an order of this Commission, Application No. 350, wherein it was authorized to issue bonds. Among the purposes for which it was authorized to issue said bonds was the construction of the plant here being considered.

It is proposed to construct a gas main from the producing plant owned and operated by applicant in the city of Pomona, said main to traverse certain highways in the county of San Bernardino to the city of Chino, in which city it is proposed to establish a distributing system connected with the main above mentioned, the whole scheme contemplating the furnishing of the citizens of Chino with gas and some consumers along the line of its main from the city of Pomona. The certificate herein asked for covers the extension in the county of San Bernardino from the city of Pomona and the applicant has asked for a like certificate in Application No. 604, covering the city of Chino.

No utility serves the territory under consideration herein with gas, and the furnishing of the territory along the line of its main and in the city of Chino will be a distinct benefit to the people residing in such territory.

No opposition is made to the granting of this application. Applicant offered to place a maximum price on the sale of its gas of \$1.25 per thousand feet, and I recommend that the application be granted with this maximum price as a condition of the order, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Southern California Edison Company for a certificate that public convenience and necessity require the construction of a gas distributing system in the county of San Bernardino, California, and for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted applicant by Ordinance No. 153 of the county of San Bernardino, California; and a public hearing having been held and it appearing to the Commission that public convenience and necessity will be served by the granting of said application,

It is hereby ordered by the Railroad Commission of the State of California that public convenience and necessity require the construction of a gas distributing system by Southern California Edison Company in the county of San Bernardino in territory described in a certain

franchise granted by Ordinance No. 153 of the county of San Bernardino, a copy of which said ordinance is on file with the application herein, marked "Exhibit C," to which reference is hereby made; and

It is hereby further ordered that public convenience and necessity require the exercise of rights and privileges by Southern California Edison Company under said franchise just above described.

This order is granted upon the following condition, not otherwise: Said Southern California Edison Company, or its successors, shall distribute gas in the territory herein mentioned at a price to consumers of not to exceed \$1.25 per thousand feet.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 6th day of August, 1913.

DECISION No. 852.

IN THE MATTER OF THE APPLICATION OF SOUTHERN
COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHOR-
ITY TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF
BONDS.

Application No. 668.

Decided August 6, 1913.

Applicant asks permission to issue bonds of the face value of \$100,000.00, proceeds to be used in betterments and additions to existing plants.

Held, Under terms of applicant's deed of trust, applicant at the present time may issue bonds only in the sum of \$7,000.00.

Held, That applicant be permitted to issue bonds of the face value of \$75,000.00; \$7,000.00 at the present time and the balance under supplemental orders issued after applicant has filed with this Commission satisfactory statements meeting the requirements of its trust deed.

Wilson & Wilson, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The applicant in this case asks for authority to issue \$100,000.00 of its six per cent thirty-year bonds and to use the proceeds thereof for

additions and betterments to its system. Applicant owns and operates a system of gas plants as follows:

a. Gas plant at Santa Ana, which serves through its distributing system and high pressure lines the cities of Santa Ana, Orange, Anaheim, Fullerton, Placentia, and Garden Grove.

b. Gas plant at Whittier, which serves through its distributing system the city of Whittier.

c. Gas plant at Monrovia, which serves through its distributing system and high pressure lines the cities of Monrovia, Sierra Madre, Arcadia, South Santa Anita, and El Monte.

d. Gas plant at Covina, which serves through its distributing system and high pressure lines the cities of Covina, Azusa, and Glendora.

The affairs of this corporation have been reviewed in detail by this Commission in its decision upon Application No. 230. In its present application Southern Counties Gas Company sets forth that the necessities of its business require the construction of additions and betterments as follows:

BETTERMENTS REQUIRED AT PLANTS.

Santa Ana plant (now being installed), June 30, 1913.

| | | |
|--|------------|--------------------|
| 250-horsepower boiler, connected----- | \$5,500 00 | |
| Direct connected turbine blower----- | 1,050 00 | |
| Direct connected exhauster----- | 950 00 | |
| Extension building over generator----- | 600 00 | |
| Extension building over boiler----- | 4,000 00 | |
| | | \$12,100 00 |
| Superintending, engineering and contingencies----- | | 1,210 00 |

Proposed for immediate installation—

| | | |
|--|------------|-----------------|
| Second lift on gas holder----- | \$6,000 00 | |
| Compressor installed----- | 1,800 00 | |
| Wash box for No. 2 generator----- | 400 00 | |
| Small air blower----- | 75 00 | |
| New valves and piping----- | 450 00 | |
| Lots 7 and 8, Block "A," Bailey's Addition----- | 600 00 | |
| | | 9,325 00 |
| Superintending, engineering and contingencies----- | | 932 50 |

Monrovia plant (now being installed).

| | | |
|---|------------|-----------------|
| Generator and wash box, installed----- | \$3,500 00 | |
| Scrubber, installed----- | 1,000 00 | |
| Set of 2 purifiers, installed----- | 2,000 00 | |
| 12-inch offtake lines with fittings and valves----- | 500 00 | |
| Direct connected turbine blower set----- | 1,050 00 | |
| Direct connected exhauster----- | 950 00 | |
| | | 9,000 00 |
| Superintending, engineering and contingencies----- | | 900 00 |

Monrovia plant (proposed for immediate installation).

| | | |
|---|------------|-----------------|
| 250-horsepower steam boiler, installed----- | \$5,500 00 | |
| Lamp black separator----- | 600 00 | |
| | | 6,100 00 |
| Superintending, engineering and contingencies----- | | 610 00 |
| Miscellaneous small betterments for all plants----- | | 4,000 00 |

Total required for plants----- \$44,177 50

BETTERMENTS REQUIRED ON DISTRIBUTING SYSTEM.

Now being installed:

| | | |
|--|----------|-------------|
| <i>Santa Ana.</i> | | |
| Various short extensions..... | \$515 00 | |
| 5,800 feet 6-inch gas line at 75 cents..... | 4,350 00 | |
| 4,600 feet 4-inch gas line at 50 cents..... | 2,300 00 | |
| <i>Orange.</i> | | |
| Various short extensions..... | 200 00 | |
| <i>Anaheim.</i> | | |
| Various short extensions..... | 277 00 | |
| <i>Fullerton.</i> | | |
| Various short extensions..... | 115 00 | |
| 4-inch belt line extensions..... | 1,488 00 | |
| <i>Whittier.</i> | | |
| Various short extensions | 437 00 | |
| <i>Monrovia.</i> | | |
| Various short extensions | 91 50 | |
| <i>Placentia.</i> | | |
| Various short extensions..... | 38 00 | |
| 95 service mains to meters..... | 270 50 | |
| 50 service regulators..... | 150 00 | |
| | | \$10,232 00 |
| Superintending, engineering and contingencies..... | | 1,023 20 |

PROPOSED FOR IMMEDIATE INSTALLATION.

| | | |
|--|-------------|--------------|
| <i>Santa Ana.</i> | | |
| 3 regulators in vaults..... | \$300 00 | |
| Drips | 100 00 | |
| <i>Monrovia.</i> | | |
| 8-inch line from plant to uptown holder, 4,000 feet, at \$1.05 | 4,200 00 | |
| <i>Sierra Madre.</i> | | |
| 3-inch line from Falingleaf to White Oaks on Santa Anita avenue, thence to Sierra Madre via Grand View | 4,150 00 | |
| | | 8,750 00 |
| Various short extensions all over system to be put in as business demands | \$23,000 00 | |
| 1,800 services, main to curb..... | 6,400 00 | |
| 900 regulators | 2,700 00 | |
| | | 32,100 00 |
| Superintending, engineering and contingencies..... | | 4,085 00 |
| Total | | \$56,190 20 |
| Grand total | | \$100,367 70 |

The applicant herein submits an appraisal of its properties in the sum of \$691,197.00.

| | |
|--|--------------|
| It has bonds outstanding to the amount of..... | \$589,500 00 |
| It has bonds in its treasury, authorized by this Commission, but un- issued, in the sum of..... | 11,500 00 |
| It owes, in the form of note indebtedness..... | 50,072 43 |
| Making a total of..... | \$651,072 43 |

Under the terms of its mortgage and deed of trust, the applicant herein may issue bonds up to 75 per cent of the cost of additions and

betterments and may issue such bonds only when the net earnings of the company are one and one half times the interest charges on the outstanding bonds, plus one and one half times the interest charges on the bonds proposed to be issued.

It has been the practice of the applicant to finance the remaining 25 per cent of the cost of additions and betterments by notes. The officials of the company testified at the hearing in this case, however, that it would be the policy of the corporation to liquidate this note indebtedness through the sale of preferred stock as soon as its preferred stock could be released from an escrow agreement. The Commission will, therefore, proceed upon the assurance that a large portion of this note indebtedness will be discharged as soon as the company can make the necessary arrangements to obtain the release of its preferred stock.

The applicant submits a statement of earnings for the year ending December 31, 1912, as follows:

| | |
|--|---------------------|
| Gas earnings (net)..... | \$182,699 95 |
| Miscellaneous income | 12,644 58 |
| Gross earnings | \$195,344 53 |
| <i>Deduct expenses:</i> | |
| <i>Generating—</i> | |
| Operating | \$63,602 37 |
| Maintenance | 4,612 60 |
| | \$68,214 97 |
| <i>Distributing—</i> | |
| Operating | \$14,527 00 |
| Maintenance | 7,324 81 |
| | 21,851 81 |
| <i>General expenses—</i> | |
| District offices | \$13,799 01 |
| Head office: | |
| Salaries | 10,738 90 |
| Rent | 1,200 00 |
| General | 8,428 37 |
| | 34,166 28 |
| Taxes, licenses and insurance..... | 9,339 01 |
| | 133,572 67 |
| Net earnings before providing for depreciation, bond interest and expenses, etc. | \$61,771 86 |
| <i>Deduct:</i> | |
| Bond interest | \$32,518 74 |
| Other interest | 1,639 70 |
| Bond expense chargeable to year ending December 31, 1912 | 6,355 44 |
| | 40,513 88 |
| Net profit, before providing for depreciation..... | \$21,257 98 |

The company submits also a statement of earnings for the six months ending June 30, 1913, as follows:

| | | |
|---|--------------|--------------|
| Gas sales ----- | \$111,656 84 | |
| Merchandise sales—profits ----- | 1,983 04 | \$113,639 88 |
| Miscellaneous income ----- | | 318 56 |
| Total gross income ----- | | \$113,958 44 |
| Operating expenses ----- | \$73,965 03 | |
| Taxes ----- | 3,477 05 | |
| Insurance ----- | 1,710 00 | |
| Depreciation ----- | 200 00 | |
| | | 79,352 08 |
| Net earnings before providing for bad debts, bond interest, other interest, etc. ----- | | \$34,606 36 |
| <i>Deduct:</i> | | |
| Merchandise rebates—Bad debts ----- | \$109 67 | |
| Interest on funded debt ----- | 17,444 17 | |
| Other interest ----- | 1,184 87 | |
| | | 18,738 71 |
| Net earnings for six months ending June 30, 1913 ----- | | \$15,867 65 |
| <i>Deduct:</i> | | |
| Expenses—Loss on working equipment and adjustment of claims chargeable to years 1911 and 1912 ----- | \$252 17 | |
| Expenses—Law adjustments chargeable to the year ending December 31, 1911 ----- | 4,876 89 | |
| | | \$5,129 06 |
| Less income credited to the year ending December 31, 1912 ----- | | 45 06 |
| | | 5,084 00 |
| Net profit for six months ending June 30, 1913 ----- | | \$10,783 65 |

Southern Counties Gas Company is extending its system to take care of the increasing business offered. I find that the additions and betterments which the applicant proposes to make are reasonably required for its service and that they are not reasonably chargeable to operating expenses or to income.

Under applicant's mortgage and deed of trust, it may, however, issue bonds up to only 75 per cent of the cost of the proposed additions and betterments, or in the sum of \$75,000.00.

As applicant's mortgage and deed of trust provides further that it may issue bonds only when its net earnings shall have been one and one half times the interest charges on outstanding bonds, plus one and one half times the interest charges upon bonds to be issued, I find that the applicant may at this time issue only \$7,000.00 in bonds.

I recommend that the applicant be authorized to issue \$75,000.00 in bonds. At the same time, I recommend that it be authorized to issue at this time only \$7,000.00 in bonds and that applicant be permitted, by

supplemental orders, to issue the remaining \$68,000.00 of bonds at such times as it shall be able to show earnings as required under its mortgage and deed of trust.

I, therefore, submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to this Commission for authority to issue \$100,000.00 of its six per cent thirty-year first mortgage bonds under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, as trustee, a copy of which is on file with this Commission and to which reference is hereby made; and a hearing having been held; and it appearing that the purposes for which Southern Counties Gas Company desires to issue said bonds are not, in whole or in part, chargeable to operating expenses or to income; and it appearing further that the additions and betterments which Southern Counties Gas Company desires to make to its gas plants from the proceeds of said bonds are reasonably required in the conduct of its business,

It is hereby ordered that Southern Counties Gas Company be given authority, and it is hereby given authority, to issue \$75,000.00 of its first mortgage six per cent thirty-year bonds under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, as trustee, dated April 1, 1911, said bonds maturing April 1, 1914, a copy of said mortgage and deed of trust being on file with this Commission in Application No. 230, to which reference is hereby made.

(1) Said bonds herein authorized to be issued shall be issued to pay for 75 per cent of the additions and betterments to applicant's gas system, as follows and not otherwise:

BETTERMENTS REQUIRED AT PLANTS.

Santa Ana plant (now being installed), June 30, 1913.

| | | |
|---|------------|-------------|
| 250-horsepower boiler, connected ----- | \$5,500 00 | |
| Direct connected turbine blower ----- | 1,050 00 | |
| Direct connected exhauster ----- | 950 00 | |
| Extension building over generator ----- | 600 00 | |
| Extension building over boiler ----- | 4,000 00 | |
| | | \$12,100 00 |
| Superintending, engineering and contingencies ----- | | 1,210 00 |

Proposed for immediate installation.

| | | |
|---|------------|----------|
| Second lift on gas holder ----- | \$6,000 00 | |
| Compressor installed ----- | 1,800 00 | |
| Wash box for No. 2 generator ----- | 400 00 | |
| Small air blower ----- | 75 00 | |
| New valves and piping ----- | 450 00 | |
| Lots 7 and 8, Block "A," Bailey's Addition ----- | 600 00 | |
| | | 9,325 00 |
| Superintending, engineering and contingencies ----- | | 932 50 |

If the rates collected by the defendant company upon the shipments involved in this proceeding moving between June 2, 1911, and October 10, 1911, are in violation of any of the provisions of the constitution or statutes of this State, the complainants are entitled to reparation. The complainants have based their right to reparation upon the provisions of the long and short haul clause of the constitution, there being no long and short haul provision in the Stetson-Eshleman Act. The long and short haul clause of the constitution in effect between June 2, 1911, and October 10, 1911, is found in section 21 of article XII of the constitution, and reads as follows:

“Persons and property transported over any railroad, or by any other transportation company or individual, shall be delivered at any station, landing or port, at charges not exceeding the charges for the transportation of persons and property of the same class in the same direction, *to any more distant station, port or landing.*”

It will be noted that this provision includes only such cases as involve a lower rate “to a more distant station, port or landing.” It is not sufficient that the case involves a lower rate “*from* a more distant station, port or landing.” Complainants rely in this proceeding on the fact that the rate from points intermediate between Tracy and San Francisco is less than the rate from Tracy to San Francisco, *i. e.*, less than the rate “*from* a more distant station, port or landing.”

The facts of this proceeding do not, therefore, entitle complainants to an award of reparation under the long and short haul provisions of the constitution.

Complainants have based their right to reparation, in part, upon alleged violations of Rule 7a, C. R. C. Tariff Circular No. 1, effective November 21, 1910, reading as follows:

“In every instance where a class or commodity rate is named in a tariff between specified points, the lowest of such rates is the lawful rate; *provided*, that if some combination of class or commodity rates or class and commodity rates is found to be lower than the through rate, the lower combination of rates shall apply and the carrier shall immediately make its through rate correspond to the lower combination of rates. It being the intention to give the shipper the advantage of the lowest possible rate.”

The evidence introduced in this case, and the argument presented in the briefs were directed, however, solely to the alleged violations of the long and short haul clause of the constitution, and the provisions of Rule 7a were resorted to merely in determining the rates upon which the alleged violations of the long and short haul clause of the constitution should be based. Complainants did not in this proceeding direct their attention to any instance in which they were entitled to an award of reparation solely upon the provisions of Rule 7a. It becomes unnecessary, therefore, to determine in this proceeding whether com-

plainants have any right to reparation based solely upon the provisions of Rule 7a.

I recommend, therefore, that the complaint be dismissed and submit the following form of order:

ORDER.

The above entitled proceeding having come on regularly for hearing, and it appearing that the complainants are not entitled to the reparation requested,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION No. 847.

LIVERMORE WAREHOUSE COMPANY ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 296.

Decided August 2, 1913.

Complainant asks reparation on shipments of hay moving between points west of Tracy to Oakland, San Francisco and San Jose.

Held, Complainant not entitled to reparation, complaint dismissed.

J. O. Bracken, for Complainants.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is a complaint for reparation of charges collected on carload shipments of hay originating at points west of Tracy on the Niles and Livermore line of defendant and destined to Oakland, San Francisco and San Jose. The shipments involved in this proceeding moved between November 15, 1910, and June 25, 1912. The complaint asks that reparation be awarded to the amount of \$3,614.61, this amount being the difference between the charges collected and the rate from Tracy to the points of destination.

The facts of this case and the allegations in the complaint are practically similar to those presented in Case No. 228, being the case of *Scott Magner & Miller et al. vs. Southern Pacific Company*. These two cases were consolidated for hearing, and I shall refer to the supplemental opinion rendered in Case No. 228 on August 2, 1913, as deciding most of the questions involved in this proceeding.

It will be noted that the claim to reparation in this proceeding is based upon an alleged violation of the long and short haul clause found in section 21 of article XII of the constitution of this State, prior to its amendment on October 10, 1911. The long and short haul clause of the constitution does not include a case where the lower rate is "from a more distant point." The claim to reparation in this proceeding is based upon the fact that the rate from Tracy to point of destination is lower than the rate from intermediate points to destination. The claim is obviously based upon a lower rate "from a more distant point," and so is not included within the provisions of the long and short haul clause of the constitution. This conclusion is explained in detail in the opinion in Case No. 228.

I recommend that the complaint in this proceeding, as far as it is based upon the alleged violations of the long and short haul clause of the constitution, be dismissed.

The complaint also alleges that the rates under which the shipments moved in this proceeding were unreasonable, and asks reparation upon this ground. Of course, this allegation would apply only to charges collected subsequent to October 10, 1911, for prior to the amendment of the constitution of this State, on October 10, 1911, the rates fixed by the Commission were conclusively just and reasonable. I am of the opinion, however, that the complainants in this case have failed to substantiate their allegation that the rates under which the shipments moved in this proceeding were unreasonably high. Complainants introduced testimony to show that the conditions surrounding a "Class C" rate upon hay of \$1.15 per ton from Tracy to Oakland, San Francisco and San Jose were not different from conditions surrounding shipments at a greater rate from points west of Tracy to the same points of destination. In this way complainants endeavored to show that there was no justification for a higher intermediate rate.

I desire to call attention to the fact that the Commission in its decision in the San Joaquin rate case permitted an increase in the "Class C" rate from Tracy to the same points of destination from \$1.15 to \$1.55, and that the lowest rate now existing upon shipments of hay between these points is the commodity rate of \$1.45 per ton. The Commission found that the rate of \$1.15, upon which complainants rely, was unreasonably low. Of course, complainants can not establish that an existing

rate is unreasonably high solely by comparing this rate with a rate which has been found to be unreasonably low.

I recommend, therefore, that in this particular also the complaint be dismissed, and submit herewith the following form of order :

ORDER.

The above entitled proceeding having come on regularly for hearing, and it appearing that the complainants are not entitled to the reparation requested,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of August, 1913.

DECISION No. 848.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS OF THE FACE VALUE OF SIX HUNDRED AND THIRTY-NINE THOUSAND DOLLARS.

Application No. 590.

Decided August 7, 1913.

Supplemental order permitting applicant to issue additional bonds of the face value of \$102,000.00 subject to certain conditions.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SUPPLEMENTAL OPINION.

This is a supplemental application for authority to issue bonds of the face value of \$102,000.00.

On June 30, 1913, this Commission rendered its opinion and order in the above entitled proceeding authorizing applicant to issue bonds of the face value of \$180,000.00 on expenditures incurred prior to April 30, 1913, and also bonds of the face value of \$459,000.00 on expenditures to be incurred during 1913 subsequent to April 30, 1913. In connection with the latter issue, applicant presented a statement to be found in

revised Schedule No. 4, of the moneys which it would expend for capital purposes during the remainder of the year 1913, totaling \$612,487.09. The Commission authorized the issue of bonds of the face value of \$459,000.00 as against this expenditure on condition that applicant should, from time to time, present verified statements showing the amounts of money which it had expended subsequent to April 30, 1913, for capital expenditures, together with the price at which it expected to be able to sell its bonds, whereupon the Commission would, from time to time, make supplemental orders authorizing the issue of bonds of a face value not to exceed 75 per cent of the moneys properly expended by applicant for such capital expenditures, and designating the minimum price at which said bonds may be sold.

Applicant now files its supplemental application showing that during the months of May and June, 1913, it incurred expenditures for capital purposes amounting to \$143,377.73, and as against this expenditure applicant desires authority to issue bonds in the amount of \$102,000.00.

A summary of the estimated expenditures from May 1, 1913, to December 31, 1913, of the actual expenditures during May and June, 1913, and of the balance to be expended, is attached to the application and reads as follows:

| | Estimated expenditures May 1, 1913, to December 31, 1913 | Actual expenditures May and June, 1913 | Balance to be expended |
|--|--|---|------------------------------|
| 1. Steam power plant equipment..... | \$64,500 00 | \$6,056 03 | \$58,443 97 |
| 2. Electric distribution system..... | 164,344 39 | 49,586 54 | 114,757 85 |
| 3. Gas plant buildings and general struc- tures | 10,989 00 | 4,910 34 | 6,078 66 |
| 4. Gas generators | 29,910 24 | 10,424 43 | 19,515 81 |
| 5. Purification appliances | 22,667 79 | 9,529 21 | 13,138 58 |
| 6. Water gas sets and accessories | 7,000 00 | ----- | 7,000 00 |
| 7. Accessory equipment at works | 35,513 48 | 14,662 25 | 20,851 23 |
| 8. Gas distribution | 170,235 40 | 17,601 83 | 152,633 57 |
| 9. Gas service | 58,035 60 | 9,016 34 | 48,989 26 |
| 10. Gas meters | 21,821 61 | 14,309 95 | 7,511 66 |
| 11. Miscellaneous distribution equipment... | 10,273 26 | 530 08 | 9,743 18 |
| 12. General structures | 828 83 | 278 16 | 550 67 |
| 13. General shop equipment..... | 4,917 12 | 888 51 | 4,028 61 |
| 14. Contingencies | 11,420 37 | 5,554 06 | 5,866 31 |
| | \$612,487 09 | \$143,377 73 | \$469,109 36 |

I find that the purposes for which expenditures were incurred during the months of May and June, 1913, come within the general purposes specified in applicant's said revised Schedule No. 4, and within the purposes for which the Commission stated that it would, from time to time, make supplemental orders authorizing the issue of bonds.

Applicant alleges in its supplemental application that it expects to be able to sell its bonds for not less than 85 per cent of their face value.

I recommend that the application be granted and submit the following form of supplemental order:

SUPPLEMENTAL ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for the consent of the Commission to the issuance by said company of bonds of the face value of \$102,000.00, said bonds to be included within the general authorization of \$639,000.00 heretofore given by this Commission's order in the above entitled proceeding dated June 30, 1913, said bonds to be payable on the first day of March, 1939, and to bear interest at the rate of five per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all of the property of the company; and the Commission finding that the moneys to be procured by the issue of said bonds are necessary to and reasonably required by said company for the discharge and refunding of obligations heretofore incurred for proper capital expenditures, and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego Consolidated Gas and Electric Company of \$102,000.00 face value of bonds of said company bearing numbers 3810 to 3911, inclusive, maturing the first day of March, 1939, redeemable on March 1, 1914, or on any interest date thereafter, at par, accrued interest and a premium of five per cent on the principal thereof, and to bear interest at five per cent per annum, payable semiannually, under and in pursuance of the terms of the trust deed or mortgage heretofore and on the first day of March, 1909, made and executed by said San Diego Consolidated Gas and Electric Company to Harris Trust and Savings Bank and Los Angeles Trust Company, now known as Los Angeles Trust and Savings Bank, as trustees, upon the conditions following and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said bonds hereby authorized so as to net said company not less than eighty-five per cent of the par value of the principal thereof, besides interest accrued thereon.

2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds only for the purpose of discharging and refunding indebtedness incurred for capital expenditures made during the months of May and June, 1913, as those expenditures are set out in the opinion which precedes this order.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the

company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. San Diego Consolidated Gas and Electric Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustees under its said trust deed, on which statements or certificates it expects to receive from the trustees the bonds hereby authorized to be issued.

5. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the thirtieth day of June, 1914.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of August, 1913.

Decision No. 849, grade crossing; not printed. See end of volume.

DECISION No. 850.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF A GAS DISTRIBUTING SYSTEM IN THE CITY OF CHINO, CALIFORNIA, AND FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A GAS DISTRIBUTING SYSTEM UNDER A CERTAIN FRANCHISE GRANTED BY ORDINANCE NO. 53 OF THE CITY OF CHINO, CALIFORNIA.

Application No. 604.

Decided August 6, 1913.

Applicant asks Commission for an order authorizing the construction of a gas distributing system in the city of Chino and for permission to operate under a franchise granted by said city.

Held, Application granted; applicant to fix a rate for gas not to exceed \$1.25 per thousand feet.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern California Edison Company for a certificate that public convenience and necessity require the construction by applicant of a gas distributing system in the city of Chino, and for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted applicant by Ordinance No. 53 of the city of Chino.

As provided in Application No. 605, this day granted, it is proposed to pipe gas from the plant of applicant in the city of Pomona through certain highways in the county of San Bernardino to the city of Chino, and the authorization herein requested covers the distribution of said gas in the city of Chino. As set forth in the order this day made in Application No. 605, applicant was authorized in Order No. 350 to issue bonds for certain purposes, among which was the installation of the plant herein contemplated.

No utility serves the city of Chino with gas at the present time and no opposition has been made to the granting of this application.

The citizens of Chino will be greatly benefited by the installation of a gas distributing system in said city, and I recommend that the application be granted, subject to the same condition as laid down in the order in Application No. 605, to wit, that the maximum price to be charged consumers for gas in the city of Chino be \$1.25 per thousand feet.

I submit herewith the following form of order :

ORDER.

Application having been made to the Railroad Commission of the State of California by Southern California Edison Company for a certificate that public convenience and necessity require the construction of a gas distributing system in the city of Chino, and for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted applicant by Ordinance No. 53 of the city of Chino, California; and a public hearing having been held, and it appearing to the Commission that public convenience and necessity will be served by the granting of said application,

It is hereby ordered by the Railroad Commission of the State of California that public convenience and necessity require the construction of a gas distributing system by Southern California Edison Company in the city of Chino, as described in a certain franchise granted by Ordinance No. 53 of the city of Chino, a copy of which said ordinance is on file with the application herein, marked "Exhibit C," to which reference is hereby made; and

It is hereby further ordered that public convenience and necessity require the exercise of rights and privileges by Southern California Edison Company under said franchise just above described.

This order is granted upon the following condition, not otherwise: Said Southern California Edison Company, or its successors, shall distribute gas in the territory herein mentioned at a price to consumers of not to exceed \$1.25 per thousand feet.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of August, 1913.

DECISION No. 851.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF A GAS DISTRIBUTING SYSTEM IN THE COUNTY OF SAN BERNARDINO, CALIFORNIA, AND FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION, MAINTENANCE AND OPERATION OF A GAS DISTRIBUTING SYSTEM UNDER A CERTAIN FRANCHISE GRANTED BY ORDINANCE NO. 153 OF THE COUNTY OF SAN BERNARDINO, CALIFORNIA.

Application No. 605.

Decided August 6, 1913.

Applicant asks Commission for an order authorizing the construction of a gas distributing system in the county of San Bernardino and for permission to operate under a franchise granted by said county.

Held, Application granted; applicant to fix a rate for gas not to exceed \$1.25 per thousand feet.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern California Edison Company for a certificate that public convenience and necessity require the construction of a gas distributing system in the county of San Bernardino, and for a

certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted by the board of supervisors of said San Bernardino County.

Applicant is a large producer and distributor of gas and electricity in the southern part of California. The territory covered by it and its financial condition are set out in an order of this Commission, Application No. 350, wherein it was authorized to issue bonds. Among the purposes for which it was authorized to issue said bonds was the construction of the plant here being considered.

It is proposed to construct a gas main from the producing plant owned and operated by applicant in the city of Pomona, said main to traverse certain highways in the county of San Bernardino to the city of Chino, in which city it is proposed to establish a distributing system connected with the main above mentioned, the whole scheme contemplating the furnishing of the citizens of Chino with gas and some consumers along the line of its main from the city of Pomona. The certificate herein asked for covers the extension in the county of San Bernardino from the city of Pomona and the applicant has asked for a like certificate in Application No. 604, covering the city of Chino.

No utility serves the territory under consideration herein with gas, and the furnishing of the territory along the line of its main and in the city of Chino will be a distinct benefit to the people residing in such territory.

No opposition is made to the granting of this application. Applicant offered to place a maximum price on the sale of its gas of \$1.25 per thousand feet, and I recommend that the application be granted with this maximum price as a condition of the order, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Southern California Edison Company for a certificate that public convenience and necessity require the construction of a gas distributing system in the county of San Bernardino, California, and for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted applicant by Ordinance No. 153 of the county of San Bernardino, California; and a public hearing having been held and it appearing to the Commission that public convenience and necessity will be served by the granting of said application,

It is hereby ordered by the Railroad Commission of the State of California that public convenience and necessity require the construction of a gas distributing system by Southern California Edison Company in the county of San Bernardino in territory described in a certain

franchise granted by Ordinance No. 153 of the county of San Bernardino, a copy of which said ordinance is on file with the application herein, marked "Exhibit C," to which reference is hereby made; and

It is hereby further ordered that public convenience and necessity require the exercise of rights and privileges by Southern California Edison Company under said franchise just above described.

This order is granted upon the following condition, not otherwise: Said Southern California Edison Company, or its successors, shall distribute gas in the territory herein mentioned at a price to consumers of not to exceed \$1.25 per thousand feet.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 6th day of August, 1913.

DECISION No. 852.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF BONDS.

Application No. 668.

Decided August 6, 1913.

Applicant asks permission to issue bonds of the face value of \$100,000.00, proceeds to be used in betterments and additions to existing plants.

Held, Under terms of applicant's deed of trust, applicant at the present time may issue bonds only in the sum of \$7,000.00.

Held, That applicant be permitted to issue bonds of the face value of \$75,000.00; \$7,000.00 at the present time and the balance under supplemental orders issued after applicant has filed with this Commission satisfactory statements meeting the requirements of its trust deed.

Wilson & Wilson, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The applicant in this case asks for authority to issue \$100,000.00 of its six per cent thirty-year bonds and to use the proceeds thereof for

additions and betterments to its system. Applicant owns and operates a system of gas plants as follows:

a. Gas plant at Santa Ana, which serves through its distributing system and high pressure lines the cities of Santa Ana, Orange, Anaheim, Fullerton, Placentia, and Garden Grove.

b. Gas plant at Whittier, which serves through its distributing system the city of Whittier.

c. Gas plant at Monrovia, which serves through its distributing system and high pressure lines the cities of Monrovia, Sierra Madre, Arcadia, South Santa Anita, and El Monte.

d. Gas plant at Covina, which serves through its distributing system and high pressure lines the cities of Covina, Azusa, and Glendora.

The affairs of this corporation have been reviewed in detail by this Commission in its decision upon Application No. 230. In its present application Southern Counties Gas Company sets forth that the necessities of its business require the construction of additions and betterments as follows:

BETTERMENTS REQUIRED AT PLANTS.

Santa Ana plant (now being installed), June 30, 1913.

| | | |
|--|------------|--------------------|
| 250-horsepower boiler, connected----- | \$5,500 00 | |
| Direct connected turbine blower----- | 1,050 00 | |
| Direct connected exhaustor----- | 950 00 | |
| Extension building over generator----- | 600 00 | |
| Extension building over boiler----- | 4,000 00 | |
| | | \$12,100 00 |
| Superintending, engineering and contingencies----- | | 1,210 00 |

Proposed for immediate installation—

| | | |
|--|------------|-----------------|
| Second lift on gas holder----- | \$6,000 00 | |
| Compressor installed----- | 1,800 00 | |
| Wash box for No. 2 generator----- | 400 00 | |
| Small air blower----- | 75 00 | |
| New valves and piping----- | 450 00 | |
| Lots 7 and 8, Block "A," Bailey's Addition----- | 600 00 | |
| | | 9,325 00 |
| Superintending, engineering and contingencies----- | | 932 50 |

Monrovia plant (now being installed).

| | | |
|---|------------|-----------------|
| Generator and wash box, installed----- | \$3,500 00 | |
| Scrubber, installed----- | 1,000 00 | |
| Set of 2 purifiers, installed----- | 2,000 00 | |
| 12-inch offtake lines with fittings and valves----- | 500 00 | |
| Direct connected turbine blower set----- | 1,050 00 | |
| Direct connected exhaustor----- | 950 00 | |
| | | 9,000 00 |
| Superintending, engineering and contingencies----- | | 900 00 |

Monrovia plant (proposed for immediate installation).

| | | |
|---|------------|-----------------|
| 250-horsepower steam boiler, installed----- | \$5,500 00 | |
| Lamp black separator----- | 600 00 | |
| | | 6,100 00 |
| Superintending, engineering and contingencies----- | | 610 00 |
| Miscellaneous small betterments for all plants----- | | 4,000 00 |

Total required for plants----- **\$44,177 50**

BETTERMENTS REQUIRED ON DISTRIBUTING SYSTEM.

Now being installed:

Santa Ana.

| | |
|---|----------|
| Various short extensions..... | \$515 00 |
| 5,800 feet 6-inch gas line at 75 cents..... | 4,350 00 |
| 4,600 feet 4-inch gas line at 50 cents..... | 2,300 00 |

Orange.

| | |
|-------------------------------|--------|
| Various short extensions..... | 200 00 |
|-------------------------------|--------|

Anaheim.

| | |
|-------------------------------|--------|
| Various short extensions..... | 277 00 |
|-------------------------------|--------|

Fullerton.

| | |
|----------------------------------|----------|
| Various short extensions..... | 115 00 |
| 4-inch belt line extensions..... | 1,488 00 |

Whittier.

| | |
|--------------------------------|--------|
| Various short extensions | 437 00 |
|--------------------------------|--------|

Monrovia.

| | |
|--------------------------------|-------|
| Various short extensions | 91 50 |
|--------------------------------|-------|

Placentia.

| | |
|---------------------------------|--------|
| Various short extensions..... | 38 00 |
| 95 service mains to meters..... | 270 50 |
| 50 service regulators..... | 150 00 |

\$10,232 00
1,023 20

Superintending, engineering and contingencies.....

PROPOSED FOR IMMEDIATE INSTALLATION.

Santa Ana.

| | |
|-----------------------------|----------|
| 3 regulators in vaults..... | \$300 00 |
| Drips | 100 00 |

Monrovia.

| | |
|--|----------|
| 8-inch line from plant to uptown holder, 4,000 feet, at \$1.05 | 4,200 00 |
|--|----------|

Sierra Madre.

| | |
|---|----------|
| 3-inch line from Fallingleaf to White Oaks on Santa Anita avenue, thence to Sierra Madre via Grand View | 4,150 00 |
|---|----------|

8,750 00

| | |
|---|-------------|
| Various short extensions all over system to be put in as business demands | \$23,000 00 |
| 1,800 services, main to curb..... | 6,400 00 |
| 900 regulators | 2,700 00 |

32,100 00

Superintending, engineering and contingencies.....

4,085 00

Total **\$56,190 20**Grand total **\$100,367 70**

The applicant herein submits an appraisal of its properties in the sum of \$691,197.00.

It has bonds outstanding to the amount of..... **\$589,500 00**It has bonds in its treasury, authorized by this Commission, but unissued, in the sum of..... **11,500 00**It owes, in the form of note indebtedness..... **50,072 43**Making a total of..... **\$651,072 43**

Under the terms of its mortgage and deed of trust, the applicant herein may issue bonds up to 75 per cent of the cost of additions and

betterments and may issue such bonds only when the net earnings of the company are one and one half times the interest charges on the outstanding bonds, plus one and one half times the interest charges on the bonds proposed to be issued.

It has been the practice of the applicant to finance the remaining 25 per cent of the cost of additions and betterments by notes. The officials of the company testified at the hearing in this case, however, that it would be the policy of the corporation to liquidate this note indebtedness through the sale of preferred stock as soon as its preferred stock could be released from an escrow agreement. The Commission will, therefore, proceed upon the assurance that a large portion of this note indebtedness will be discharged as soon as the company can make the necessary arrangements to obtain the release of its preferred stock.

The applicant submits a statement of earnings for the year ending December 31, 1912, as follows:

| | |
|---|---------------------|
| Gas earnings (net)----- | \$182,699 95 |
| Miscellaneous income ----- | 12,644 58 |
| Gross earnings ----- | \$195,344 53 |
| <i>Deduct expenses:</i> | |
| <i>Generating—</i> | |
| Operating ----- | \$63,602 37 |
| Maintenance ----- | 4,612 60 |
| | \$68,214 97 |
| <i>Distributing—</i> | |
| Operating ----- | \$14,527 00 |
| Maintenance ----- | 7,324 81 |
| | 21,851 81 |
| <i>General expenses—</i> | |
| District offices ----- | \$13,799 01 |
| Head office: | |
| Salaries ----- | 10,738 90 |
| Rent ----- | 1,200 00 |
| General ----- | 8,428 37 |
| | 34,166 28 |
| Taxes, licenses and insurance----- | 9,339 01 |
| | 133,572 67 |
| Net earnings before providing for depreciation, bond interest and expenses, etc. ----- | \$61,771 86 |
| <i>Deduct:</i> | |
| Bond interest ----- | \$32,518 74 |
| Other interest ----- | 1,639 70 |
| Bond expense chargeable to year ending December 31, 1912 ----- | 6,355 44 |
| | 40,513 88 |
| Net profit, before providing for depreciation----- | \$21,257 98 |

The company submits also a statement of earnings for the six months ending June 30, 1913, as follows:

| | | |
|---|--------------|--------------|
| Gas sales ----- | \$111,656 84 | |
| Merchandise sales—profits ----- | 1,983 04 | |
| | | \$113,639 88 |
| Miscellaneous income ----- | | 318 56 |
| | | <hr/> |
| Total gross income ----- | | \$113,958 44 |
| Operating expenses ----- | \$73,965 03 | |
| Taxes ----- | 3,477 05 | |
| Insurance ----- | 1,710 00 | |
| Depreciation ----- | 200 00 | |
| | | <hr/> |
| | | 79,352 08 |
| | | <hr/> |
| Net earnings before providing for bad debts, bond interest, other interest, etc. ----- | | \$34,606 36 |
| <i>Deduct:</i> | | |
| Merchandise rebates—Bad debts ----- | \$109 67 | |
| Interest on funded debt ----- | 17,444 17 | |
| Other interest ----- | 1,184 87 | |
| | | <hr/> |
| | | 18,738 71 |
| | | <hr/> |
| Net earnings for six months ending June 30, 1913 ----- | | \$15,867 65 |
| <i>Deduct:</i> | | |
| Expenses—Loss on working equipment and adjustment of claims chargeable to years 1911 and 1912 ----- | \$252 17 | |
| Expenses—Law adjustments chargeable to the year ending December 31, 1911 ----- | 4,876 89 | |
| | | <hr/> |
| | | \$5,129 06 |
| Less income credited to the year ending December 31, 1912 ----- | | 45 06 |
| | | <hr/> |
| | | 5,084 00 |
| | | <hr/> |
| Net profit for six months ending June 30, 1913 ----- | | \$10,783 65 |

Southern Counties Gas Company is extending its system to take care of the increasing business offered. I find that the additions and betterments which the applicant proposes to make are reasonably required for its service and that they are not reasonably chargeable to operating expenses or to income.

Under applicant's mortgage and deed of trust, it may, however, issue bonds up to only 75 per cent of the cost of the proposed additions and betterments, or in the sum of \$75,000.00.

As applicant's mortgage and deed of trust provides further that it may issue bonds only when its net earnings shall have been one and one half times the interest charges on outstanding bonds, plus one and one half times the interest charges upon bonds to be issued, I find that the applicant may at this time issue only \$7,000.00 in bonds.

I recommend that the applicant be authorized to issue \$75,000.00 in bonds. At the same time, I recommend that it be authorized to issue at this time only \$7,000.00 in bonds and that applicant be permitted, by

supplemental orders, to issue the remaining \$68,000.00 of bonds at such times as it shall be able to show earnings as required under its mortgage and deed of trust.

I, therefore, submit the following form of order :

ORDER.

Southern Counties Gas Company of California having applied to this Commission for authority to issue \$100,000.00 of its six per cent thirty-year first mortgage bonds under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, as trustee, a copy of which is on file with this Commission and to which reference is hereby made; and a hearing having been held; and it appearing that the purposes for which Southern Counties Gas Company desires to issue said bonds are not, in whole or in part, chargeable to operating expenses or to income; and it appearing further that the additions and betterments which Southern Counties Gas Company desires to make to its gas plants from the proceeds of said bonds are reasonably required in the conduct of its business.

It is hereby ordered that Southern Counties Gas Company be given authority, and it is hereby given authority, to issue \$75,000.00 of its first mortgage six per cent thirty-year bonds under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, as trustee, dated April 1, 1911, said bonds maturing April 1, 1914, a copy of said mortgage and deed of trust being on file with this Commission in Application No. 230, to which reference is hereby made.

(1) Said bonds herein authorized to be issued shall be issued to pay for 75 per cent of the additions and betterments to applicant's gas system, as follows and not otherwise :

BETTERMENTS REQUIRED AT PLANTS.

Santa Ana plant (now being installed), June 30, 1913.

| | | |
|---|------------|-------------|
| 250-horsepower boiler, connected ----- | \$5,500 00 | |
| Direct connected turbine blower ----- | 1,050 00 | |
| Direct connected exhauster ----- | 950 00 | |
| Extension building over generator ----- | 600 00 | |
| Extension building over boiler ----- | 4,000 00 | |
| | <hr/> | \$12,100 00 |
| Superintending, engineering and contingencies ----- | | 1,210 00 |

Proposed for immediate installation.

| | | |
|---|------------|----------|
| Second lift on gas holder ----- | \$6,000 00 | |
| Compressor installed ----- | 1,800 00 | |
| Wash box for No. 2 generator ----- | 400 00 | |
| Small air blower ----- | 75 00 | |
| New valves and piping ----- | 450 00 | |
| Lots 7 and 8, Block "A," Bailey's Addition ----- | 600 00 | |
| | <hr/> | 9,325 00 |
| Superintending, engineering and contingencies ----- | | 932 50 |

Monrovia plant (now being installed).

| | | |
|---|------------|------------|
| Generator and wash box, installed..... | \$3,500 00 | |
| Scrubber, installed | 1,000 00 | |
| Set of 2 purifiers, installed..... | 2,000 00 | |
| 12-inch offtake lines with fittings and valves..... | 500 00 | |
| Direct connected turbine blower set..... | 1,050 00 | |
| Direct connected exhauster..... | 950 00 | |
| | | \$9,000 00 |
| Superintending, engineering and contingencies..... | | 900 00 |

Monrovia plant (proposed for immediate installation).

| | | |
|---|------------|-------------|
| 250-horsepower steam boiler, installed..... | \$5,500 00 | |
| Lamp black separator | 600 00 | |
| | | 6,100 00 |
| Superintending, engineering and contingencies..... | | 610 00 |
| Miscellaneous small betterments for all plants..... | | 4,000 00 |
| Total required for plants..... | | \$14,177 50 |

BETTERMENTS REQUIRED ON DISTRIBUTING SYSTEM.

Now being installed:

Santa Ana.

| | |
|---|----------|
| Various short extensions | \$515 00 |
| 5,800 feet 6-inch gas line at 75 cents..... | 4,350 00 |
| 4,600 feet 4-inch gas line at 50 cents..... | 2,300 00 |

Orange.

| | |
|-------------------------------|--------|
| Various short extensions..... | 200 00 |
|-------------------------------|--------|

Anaheim.

| | |
|-------------------------------|--------|
| Various short extensions..... | 277 00 |
|-------------------------------|--------|

Fullerton.

| | |
|----------------------------------|----------|
| Various short extensions..... | 115 00 |
| 4-inch belt line extensions..... | 1,488 00 |

Whittier.

| | |
|-------------------------------|--------|
| Various short extensions..... | 437 00 |
|-------------------------------|--------|

Monrovia.

| | |
|-------------------------------|-------|
| Various short extensions..... | 91 50 |
|-------------------------------|-------|

Placentia.

| | |
|---------------------------------|--------|
| Various short extensions..... | 38 00 |
| 95 service mains to meters..... | 270 50 |
| 50 service regulators..... | 150 00 |

\$10,232 00

| | |
|--|----------|
| Superintending, engineering and contingencies..... | 1,023 20 |
|--|----------|

PROPOSED FOR IMMEDIATE INSTALLATION.

Santa Ana.

| | |
|-----------------------------|----------|
| 3 regulators in vaults..... | \$300 00 |
| Drips | 100 00 |

Monrovia.

| | |
|--|----------|
| 8-inch line from plant to uptown holder, 4.00 feet at \$1.05 | 4,200 00 |
|--|----------|

Sierra Madre.

| | |
|---|----------|
| 3-inch line from Fallingleaf to White Oaks on Santa Anita avenue, thence to Sierra Madre via Grand View | 4,150 00 |
|---|----------|

8,750 00

| | |
|---|-------------|
| Various short extensions all over system to be put in as business demands | \$23,000 00 |
| 1,800 services, main to curb..... | 6,400 00 |
| 900 regulators | 2,700 00 |

32,100 00

| | |
|---|----------|
| Superintending engineering and contingencies..... | 4,085 00 |
|---|----------|

| | |
|-------------|-------------|
| Total | \$56,190 20 |
|-------------|-------------|

| | |
|-------------------|--------------|
| Grand total | \$100,367 70 |
|-------------------|--------------|

(2) Southern Counties Gas Company may issue at this time \$7,000.00 of said bonds and shall make no further issue of said bonds until it shall have filed with this Commission, in satisfactory form, a statement showing that its net earnings for twelve months have been one and one half times the interest on outstanding bonds, plus one and one half times the interest on the bonds proposed to be issued and shall have received a supplemental order from this Commission authorizing such further issue of bonds.

(3) The bonds herein authorized to be issued shall be sold so as to net applicant herein not less than 85 per cent of the face value thereof, plus accrued interest thereon.

(4) Southern Counties Gas Company shall keep separate, true and accurate accounts showing the receipts and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the 25th day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The payment of the minimum fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

(6) The authority hereby given to issue such bonds shall apply only to bonds issued by said company on or before the thirtieth day of June, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of August, 1913.

DECISION No. 853.

IN THE MATTER OF THE APPLICATION OF LOMPOC GAS AND ELECTRIC COMPANY FOR PERMISSION TO ISSUE BONDS IN THE AMOUNT OF SEVENTY-FIVE THOUSAND (75,000) DOLLARS AND TO PURCHASE THE PLANT OF THE EXISTING UTILITY IN LOMPOC.

Application No. 74.

Decided August 7, 1913.

M. K. Young, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

A hearing on this application was held July 6, 1912, and the matter submitted for the consideration of the Commission.

Thereafter, applicant was informed that the Commission would not grant the application as prayed for, and the opportunity was offered for a modification of the application.

Thereafter, the matter remained in abeyance until June 17, 1913, on which date applicant requested that the matter remain in abeyance for a month. This month has elapsed and no action has been taken in the matter by applicant, and therefore, I recommend that the application be dismissed, and submit the following form of order:

ORDER.

For the reasons set out in the foregoing opinion, it is hereby ordered by the Railroad Commission of the State of California that Application No. 74 be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of August, 1913.

DECISION No. 854.

IN THE MATTER OF THE APPLICATION OF TORRANCE WATER, LIGHT AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND BONDS.

Application No. 341.*Decided August 7, 1913.*

Applicant asks permission to issue 50,000 shares of its capital stock; to mortgage its property; to issue \$125,000.00 face value of bonds; to purchase a water system from the Dominguez Land Corporation.

Held. Applicant permitted to issue bonds of the face value of \$115,000.00 and \$34,000.00 par value of stock, subject to certain conditions; said stock and bonds to be used to purchase a certain water system from the Dominguez Land Corporation, which corporation shall file with this Commission a suitable agreement guaranteeing the payment of interest on said bonds.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Torrance Water, Light and Power Company, joined in by Dominguez Land Corporation, Ralph Bennett, trustee, and Ralph Bennett and E. C. Dicey, joint trustees, for an order authorizing the Torrance Water, Light and Power Company to—

1. Issue 50,000 shares of its capital stock at not less than 80 cents a share, and

2. Authorizing said company to execute and deliver a mortgage or deed of trust encumbering all of its property to secure the payment of principal and interest of \$300,000.00 face value of bonds, and

3. Authorizing said company to issue \$125,000.00 face value of bonds at not less than 80 per cent of the face value thereof, said bonds to bear interest at the rate of 6 per cent per annum, and

4. Authorizing Dominguez Land Corporation, Ralph Bennett, trustee, and Ralph Bennett and E. C. Dicey, joint trustees, to convey a water system and appurtenances to Torrance Water, Light and Power Company.

The property which is to be made security for the bonds herein asked to be authorized is a water distributing system located in the town of Torrance, Los Angeles County, and consists of lands, pipes, pumps, rights of way, etc., as more fully set out in Exhibit 3, attached to the amended and supplemental application on file herein.

The present owner of the lands on which the irrigating and domestic water system is situated is the Dominguez Land Corporation.

The title to the rights of way, easements and water systems with appliances and appurtenances is temporarily fixed in Ralph Bennett, trustee, and Ralph Bennett and E. C. Dicey, joint trustees, who are now operating the water system.

Applicant, Torrance Water, Light and Power Company, was organized with capital stock of \$200,000.00, for the purpose of taking over this water system from its present owners, and it is proposed to pay for said water system the sum of \$142,791.30, which is stated to be actual cost of constructing the system.

To provide this money, applicant asks to be allowed to sell \$50,000.00 par value of its capital stock at 80 per cent of par and \$125,000.00 face value of its bonds at 80 per cent of such face value, thus producing \$140,000.00. The result of this transaction would be that on property costing \$142,791.30 there would be issued \$125,000.00 of bonds, which would provide a margin of property over face of outstanding bonds of only about 12 per cent.

Ordinarily, the Commission has insisted upon a greater margin of property over face of bonds than would here result, and I see nothing in this situation which would justify the issuance of more securities upon this property than it can safely carry.

The plan of the promoters and builders of this water system as presented to the Commission evidently contemplated that they should immediately receive back \$125,000.00 face of bonds salable at 80 per cent, or \$100,000.00, thus leaving them with an investment of only \$42,791.30, for which they were willing to take capital stock at 80 per cent of par.

Keeping in view the fact that these gentlemen constructed the water system with the primary purpose of increasing the value of the land which they had purchased and subdivided with the view of establishing a city or town thereon, because it is apparent that without a water system to supply people with water no considerable sales of land could be made, it seems no injustice to insist upon a reduction in the amount of bonds asked for so that there will at least be a margin of 20 per cent value of property over face of bonds and to allow an additional amount of stock to represent the equity in the property after deducting bonded indebtedness.

The public has a direct interest in the capitalization of a public utility corporation. If such a corporation is conservatively capitalized it makes it possible to obtain money to make extensions, additions and betterments as they are needed; whereas, if the corporation is overbonded it becomes impossible to use the property of the company as security for such purposes, and the public suffers the lack of much needed service.

I recommend that an amount of bonds be authorized equal to 80 per cent of the cost of this plant, or in round numbers, \$115,000.00.

Applicant asks to be allowed to issue 50,000 shares of stock and to sell the same at 80 per cent of par, but this request contemplates the turning over of \$125,000.00 face value of bonds and \$50,000.00 par value of stock on a basis of 80 per cent of their face value in exchange for \$142,791.30 of property.

In view of the reduction of the amount of bonds authorized to \$115,000.00, which leaves a margin of value of property over indebtedness of \$27,791.30, I recommend that applicant be allowed to issue in payment for the property herein proposed to be conveyed stock to represent the equity in said property at 80 per cent of par, or \$34,000.00 par value of stock.

The town of Torrance is near the city of Los Angeles, and the water system in question has been designed and constructed to conform to the water system serving the city of Los Angeles, so that if in the future the city of Los Angeles desires to take over and operate this water system it may do so without the necessity of reconstructing it to conform with its own system.

The town of Torrance is a new community, sparsely settled, but with a population rapidly increasing, and it is expected that within a reasonable period there will be consumers sufficient to use the capacity of this water system. At present, however, no adequate income is produced in the operation of this system to pay the interest charges created by a bond issue, and some guarantee should be provided for the payment of this interest.

The Dominguez Land Corporation owns, sells and leases the land served by this water system and in reality is the corporation into which feeds all of the profits of the enterprise, which includes the establishment of the town of Torrance and the sale and lease of all property included therein.

Therefore, I recommend that the order herein be contingent upon a guarantee by said Dominguez Land Corporation of the interest on the bonds herein authorized.

I submit herewith the following form of order:

ORDER.

Application having been made by the Torrance Water, Light and Power Company, the Dominguez Land Corporation, Ralph Bennett, trustee, and Ralph Bennett and E. C. Dicey, joint trustees, for an order authorizing said Torrance Water, Light and Power Company to issue \$125,000.00 face value of 6 per cent bonds and \$50,000.00 par value of common capital stock, and to mortgage or encumber its property as security for the payment of principal and interest of said bonds, and authorizing the Dominguez Land Corporation, Ralph Bennett, trustee,

and Ralph Bennett and E. C. Dicey, joint trustees, to sell, and Torrance Water, Light and Power Company to purchase a certain water distributing system with its appurtenances located in the town of Torrance, Los Angeles County, California,

And a hearing having been duly held, and it appearing to the Commission that the property to be procured by the issue of such stock and bonds is required for the purpose of operating a water distributing system in the town of Torrance and the purposes for which said stock and bonds are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize—

1. The issue by Torrance Water, Light and Power Company of \$115,000.00 face value of bonds, bearing interest at the rate of 6 per cent per annum, dated May 1, 1913, payable on the first day of May, 1943, and

2. The issue by said company of \$34,000.00 par value of common capital stock.

3. The sale by Dominguez Land Corporation, Ralph Bennett, trustee, and Ralph Bennett and E. C. Dicey, joint trustees, and the purchase by Torrance Water, Light and Power Company of that certain water distributing system and the appurtenances located in the town of Torrance, Los Angeles County, California, and more particularly described in Exhibit 3, attached to the amended and supplemental application and petition on file herein and as described in the copy of a proposed trust deed on file with the application herein, the full consideration for said conveyance to be the transfer by said Torrance Water, Light and Power Company of \$115,000.00 face value of its bonds and \$34,000.00 par value of its common capital stock.

4. The Torrance Water, Light and Power Company to convey, mortgage or encumber all of its property and plant for the purpose of securing the payment of the bonds herein authorized to be issued.

Said bonds to be issued in pursuance of the terms of an indenture to be dated May 1, 1913, and to be executed by the Torrance Water, Light and Power Company to the Los Angeles Trust and Savings Bank, a copy of which proposed indenture is marked Exhibit 4 and attached to the original application herein.

This order is made upon the following conditions, not otherwise :

1. Torrance Water, Light and Power Company shall receive in exchange for the stocks and bonds herein authorized to be issued a good and marketable title to all that certain property or water system located in the town of Torrance, Los Angeles County, and particularly described in Exhibit No. 3, attached to the amended and supplemental

application and petition on file herein, and as described in the copy of a proposed trust deed on file with the application herein.

2. Immediately upon the issuance of the stock and bonds herein authorized for the considerations herein named, said company shall make a verified report to the Commission containing a detailed statement of the issuance of said stock and bonds, and the acquisition therefor of the property herein mentioned.

3. This order shall not become effective for any purpose until there shall have been approved by this Commission a contract or agreement whereby the Dominguez Corporation shall guarantee the payment of the interest on the bonds herein authorized to be issued.

4. The authority hereby given to issue stock and bonds shall apply only to stock and bonds issued on or before the seventh day of November, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of August, 1913.

DECISION No. 855.

**IN THE MATTER OF THE APPLICATION OF THE LINDSAY
HOME TELEPHONE AND TELEGRAPH COMPANY FOR
AN ORDER AUTHORIZING IT TO ISSUE CERTAIN STOCK
OR STOCK CERTIFICATES.**

Application No. 626.

Decided August 11, 1913.

Applicant permitted to issue 1,644 shares of capital stock of the par value of \$1.00 per share, proceeds to be used for additions and betterments to existing plant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Lindsay Home Telephone and Telegraph Company having applied to this Commission for an order authorizing it to issue 1,644 shares of its capital stock of a par value of \$1.00 each per share, in lieu of said equal number of shares heretofore issued without the approval of this commission, in ignorance of the provisions of the Public Utilities Act, the money received from the sale of said 1,644 shares heretofore issued

having already been used for additions and betterments to applicant's telephone plant; and a hearing having been held; and it appearing that the purposes for which the money was received from the sale of said 1,644 shares of stock were not, in whole or in part, reasonably chargeable to operating expenses or to income; and it appearing further that the applicant received for said stock not less than 80 per cent of the par value thereof;

It is hereby ordered that Lindsay Home Telephone and Telegraph Company be given authority, and it is hereby given authority, to issue 1,644 shares of its capital stock, upon the following conditions and not otherwise:

(1) Said stock herein authorized shall be issued to the following persons in substitution for an equal number of shares purported to have been issued on June 12, 1912, and on December 28, 1912, as follows:

50 shares to Faith M. Hostetter, on December 28, 1912;

44 shares to A. M. Robertson, on December 28, 1912;

50 shares to Avis Milbury, on December 28, 1912;

1500 shares to A. M. Robertson, on June 12, 1912.

(2) Before said stock shall be issued, the certificates of stock, in lieu of which said stock is hereby authorized to be issued, shall be called in by applicant and canceled.

By order of the Railroad Commission.

Dated at San Francisco, California, this 11th day of August, 1913.

Decision No. 856, grade crossing; not printed. See end of volume.

DECISION No. 857.

IN THE MATTER OF THE APPLICATION OF NORTHERN
ELECTRIC RAILWAY COMPANY FOR PERMISSION TO
CONSTRUCT ITS MAIN LINE TRACK AT GRADE ACROSS
FOUR (4) STREETS AND UNDERGRADE ACROSS TWO
(2) STREETS ON ITS PROPOSED EXTENSION IN THE
CITY OF VALLEJO, SOLANO COUNTY, CALIFORNIA.

Application No. 561.

Decided August 11, 1913.

Held, That applicant shall construct the bridge across its tracks at Santa Clara street not at right angles to its tracks but with an alignment to conform with that of Santa Clara street.

Held, Application in all other respects granted, subject to certain conditions.

T. T. C. Gregory, for Northern Electric Railway Company.

W. T. O'Donnell, for Protestants, City of Vallejo.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

On May 15, 1913, Northern Electric Railway Company filed with the Commission an application for permission to construct its line of railway at grade over and across Yolo street, Butte street and Tennessee street, where said three streets intersect, Nebraska street, Mississippi street and Sonoma street. It also made application for permission to construct its track undergrade at Santa Clara street and at a point where Sacramento street, Illinois street and Farragut avenue intersect or meet; all of which are located in Vallejo, Solano County, California, on its proposed extension from Suisun, Solano County, California, to the city of Vallejo, in said county.

The board of trustees of Vallejo, Solano County, California, granted Northern Electric Railway Company the necessary franchises or permits for the construction of said crossings, and Northern Electric Railway Company ordered material for bridges to carry Santa Clara street and Sacramento street overgrade above the rails of its proposed extension.

The track of Northern Electric Railway Company crosses Sacramento street and Santa Clara street at an angle of approximately forty (40) degrees. For the bridge which was to carry Santa Clara street over the tracks of Northern Electric Railway Company said company located and designated a bridge at right angles to their tracks which would place the bridge in a skew position in Santa Clara street. To better provide approaches to the bridge in this skew position Northern Electric Railway Company proposed to dedicate to the city of Vallejo for street purposes a triangular piece of ground at the northeast corner of Indiana and Santa Clara streets and also a triangular piece of ground west of and adjoining Santa Clara street north of the bridge. Said railroad also proposes to dedicate to said city of Vallejo a street parallel to and adjoining its right of way on the north. Material was ordered for this bridge to be constructed in the skew position without consulting the city authorities of Vallejo as to whether or not the bridge located and constructed in the skew position would be satisfactory and acceptable to them. The city of Vallejo, through its mayor, entered a complaint with this Commission in which the building of the bridge on Santa Clara street in the skew position or at an angle with the center line of the street was objected to.

Northern Electric Railway Company contended that if the bridge was constructed with an alignment to conform with that of Santa Clara street that it would not as adequately serve the territory lying north of

Northern Electric Railway Company's right of way as if same was constructed in the proposed skew position. The grade from Northern Electric Railway Company's north right of way line to Farragut avenue, which is the first street north of said railway, along Santa Clara street, is sixteen (16) per cent.

Northern Electric Railway Company proposed to open a street from the intersection of Santa Clara street with its northerly right of way line in a northwesterly direction, intersecting Farragut avenue near Carter street, which is the next street west of Santa Clara street, which point could be reached on an eight per cent grade from the north end of the proposed bridge. This, Northern Electric Railway Company claim, would better accommodate the district lying north of Farragut avenue and west of Carter street. This district has but a very few scattered houses and can be reached in as short a distance and with as easy a grade as by the proposed street. The principal streets in this section of Vallejo are Sacramento street and Santa Clara street, and if in the future Santa Clara street should be improved north of Northern Electric Railway Company's right of way undoubtedly quite a reduction would be made in the grade of the street between the bridge and Farragut avenue, which would greatly reduce the sixteen (16) per cent grade objected to by Northern Electric Railway Company.

As aforesaid, paralleling and adjoining Northern Electric Railway Company's north right of way line is a proposed street to be dedicated to the city which will undoubtedly be used more than any other street in this vicinity. If the bridge is placed in the skew position as proposed by Northern Electric Railway Company, the bridge will not serve this proposed street as efficiently as though the bridge was constructed to conform to the alignment of Santa Clara street.

I am of the opinion that if the bridge is constructed in a skew position in Santa Clara street it will not greatly benefit the people living north of Northern Electric Railway Company's track, for the reason that it would not adequately serve Santa Clara street nor the proposed street which is parallel and adjacent to on the north of Northern Electric Railway Company's right of way, and would only accommodate the new proposed street leading from the north end of the bridge to Carter street and the district beyond which, as aforesaid, is very sparsely settled. On the other hand, if this bridge is constructed so that its alignment conforms to that of Santa Clara street, it will be in such position that it will adequately and equally serve all streets in the vicinity, both on the north and the south side of Northern Electric Railway Company's right of way.

A skew bridge in a public thoroughfare is very undesirable under any circumstances.

The following form of order is herewith submitted:

ORDER.

A public hearing having been duly had in the above entitled matter and evidence having been presented by all parties interested, and the case having been submitted and the Commission finding as a fact that the construction of the bridge in the location proposed by Northern Electric Railway Company is undesirable and inconvenient for pedestrians and vehicle traffic moving over said bridge, and that a convenient and reasonable location for said bridge is with an alignment to conform to that of Santa Clara street, and that the location and construction of the other crossings applied for in this application are convenient and reasonable, and basing its order on the findings contained herein and on the opinion which precedes this order,

It is hereby ordered as follows:

(1) Northern Electric Railway Company shall construct its bridge across Santa Clara street not at right angles to its track, but with an alignment to conform with that of Santa Clara street.

(2) To construct its main line track at grade across the intersection of Butte, Yolo, and Tennessee streets.

(3) To construct an overhead bridge on Sacramento street at Engineer's Station 15 plus 36, the alignment of said bridge to conform to the alignment of Sacramento street.

(4) To construct its main line track at grade across Nebraska street at Engineer's Station 28 plus 62.

(5) To construct its main line track at grade across Mississippi street at Engineer's Station 33 plus 10.

(6) To construct its main line track at grade across Sonoma street at Engineer's Station 34 plus 65.

All of the above crossings to be located and constructed as shown by the maps and profiles which were attached to the application except the crossing and bridge as provided for in number one (1) above, and subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance hereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Applicant shall provide the necessary plank or guard rails for the construction of all grade crossings and shall construct same of a sufficient width to afford an easy and convenient passage thereover of vehicles and other road traffic. The grades of approach of all such crossings shall not exceed six (6) per cent, and all said crossings shall be ballasted with first-class stone or gravel ballast to a depth of not less than six (6) inches.

(3) The overhead bridges at Santa Clara street and at Sacramento street shall be constructed so that at all times the clearance above the

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rails shall not be less than twenty-two (22) feet, and shall in all other respects conform to the Commission's General Order No. 26.

(4) Northern Electric Railway Company shall construct and maintain at its own expense for the protection of each grade crossing a first-class standard automatic flagman, which, upon the approach of a train, shall display a red light, said light to have the motion of an inverted pendulum, and shall, at the same time, automatically sound a warning bell. Attached to the support of this device shall be a first-class highway crossing sign, marked with appropriate black letters not less than six (6) inches in height, upon a white background.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The above decision is hereby approved and ordered filed as the decision of this Commission.

Dated at San Francisco, California, this 11th day of August, 1913.

DECISION No. 858.

W. H. FRAZINE, INDIVIDUALLY, AND AS CHAIRMAN OF
CITIZENS' COMMITTEE,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY.

Case No. 422.

Decided August 11, 1913.

Held, That defendant file for Commission's approval, within ninety days, plans for a passenger and freight depot to cost not less than \$10,000.00, to be erected on property of defendant 800 feet south of Main street in the town of Empire.

J. M. Cross, for Plaintiffs.

M. W. Reed, for Defendant.

J. W. Walker, division superintendent, The Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

On July 1, 1913, W. H. Frazine, individually, and as chairman of Citizens' Committee of the town of Empire, Stanislaus County, Cali-

fornia, filed with this Commission a complaint against The Atchison, Topeka and Santa Fe Railway Company, alleging in effect that The Atchison, Topeka and Santa Fe Railway Company in the conduct and operation of its business as a common carrier, operates a steam railroad through, over and across the townsite of Empire, Stanislaus County, California, and that in the said conduct of its business as a common carrier said railroad intends to construct in the very near future a depot building in, at or near the said town of Empire, and that the location of the said proposed depot will be on a site about one fourth ($\frac{1}{4}$) of a mile south of a point where Main street, or what is locally called the Waterford road, intersects the railroad of defendant in the town of Empire. Complainant states that at the present time the said defendant has no depot building at or near the said town of Empire, and that the location of the proposed depot on the proposed site would be inadequate and insufficient for the following reasons:

(1) Said site has been selected without regard to the present development of the community to be served by said proposed depot.

(2) Said site has been selected without regard to the present center of population of the community to be served by said proposed depot.

(3) Said site has been selected without regard to the present source of freight traffic to be served by said proposed depot.

(4) Said site has been selected without regard to the proposed source of passenger traffic to be served by said proposed depot.

(5) Said site has been selected without regard to the future development of the community to be served by said depot.

(6) Said site has been selected without regard to the future sources of passenger and freight traffic to be served by said proposed depot.

Complainant further alleges that there are several available sites upon which a depot could be built in the town of Empire that would serve public convenience and public necessity, that one of the available sites for the location of said proposed depot which would serve public convenience and necessity is the east half of block 12 of the town of Empire, that said site is centrally located and would in every way satisfy the requirements of public convenience and demands of public necessity and is offered free to complainant if used as the site for proposed depot, that "D" street, east of said block 12, would be closed and abandoned and a fifty (50) foot street through said block 12 would be opened.

At the present time complainant maintains two box car bodies and a small shelter shed which serve the residents of Empire as station buildings. These buildings are located on the east side of defendant's main line track, approximately two hundred (200) feet south of Main street, or what is known locally as the Waterford road.

At the hearing stress was laid on the fact that the land south of Main street, or the Waterford road, was not platted, and was not a part of the townsite of Empire, but that on the north of Main street, or the Waterford road, the land is platted in city lots and blocks, and that the future development of the town of Empire will be in this platted section. However, I find as a fact that the land south of Main street, or the Waterford road, has also been platted in city lots and blocks, but had not at the time of the hearing been recorded.

At the hearing plaintiff did not appear to testify, but the witness for plaintiff, who is a stockholder in the Co-operative Colonization Company, which owns most of and did own all of the townsite of Empire, appeared and made all the objections that were made to the location of the depot on the site proposed by defendant.

The principal street of Empire is Main street, or the Waterford road, and the location of the depot on the site proposed by plaintiff would be approximately eight hundred (800) feet north from the center line of said Main street, or Waterford road. Defendant's proposed site is at a point approximately the same distance south of said Main street, or Waterford road.

In my opinion, in so far as public necessity and convenience is concerned, it is immaterial whether the depot be located north or south of Main street, or the Waterford road, and it is my opinion that the principal reason for the location of the depot on the site desired by plaintiff is to promote the sale of real estate in the townsite of Empire. I am convinced after consideration that public convenience and necessity demand the establishment of better station facilities at Empire, but it remains to be determined where this building shall be located. At the hearing defendant stated that \$10,000.00 had been appropriated for the construction of a combination freight and passenger depot at Empire, together with the necessary track facilities, but owing to the location of said depot being contested, no part of this appropriation had been expended, but that defendant was still willing to expend this amount of money for station building and track facilities at this place as soon as the proper location for same was established. North of Main street, or the Waterford road, defendant owns a right of way one hundred (100) feet in width, and to accommodate defendant, provided proposed depot will be located at the point desired by plaintiff, plaintiff offers to donate to defendant the east half ($\frac{1}{2}$) of block twelve (12) and to close "D" street east of said block twelve (12), between First and Second streets; said donation would include all of the land between block twelve (12) and defendant's westerly right of way line. A depot could be located on this proposed site, but would be objectionable from an operating standpoint. In the first

place there would not be enough land to allow increased station building and trackage facilities that will come with the development and growth of the town of Empire and surrounding country. In order to gain access to the depot with a house track it would be necessary to construct the house track in "D" street north of that portion of "D" street which would be vacated; it would also be necessary to construct said house track on and across Second, and possibly First street. Further, it would not be possible in the future to construct additional tracks in the vicinity of the depot unless they were constructed across the aforementioned streets, and if such tracks were to be constructed in the future they would of necessity have to be spur tracks; they could not be connected at both ends with the main line track of defendant, nor to passing track, without defendant purchasing additional property and securing the further closing and abandonment of portions of "D" street and First street. On the other hand, south of Main street, or the Waterford road, defendant has provided station grounds three hundred (300) feet in width, on which there are no buildings nor streets to retard the efficient operation of house tracks and spur tracks. The Grange Company warehouse is located south of Main street, or the Waterford road, a distance of approximately three hundred (300) feet, but inasmuch as the proposed depot should be constructed a sufficient distance from Main street, or the Waterford road, to prevent the stopping of engines or trains on or across Main street, or the Waterford road, this warehouse will not interfere with the operation of trains nor the installation of tracks to the depot. On account of the wide station grounds south of Main street, or the Waterford road, which was provided by defendant to be used for station facilities such as is proposed to be installed at this place, defendant will not be subjected to difficulties and interference in the operation of its trains and the construction of its tracks if the depot is located in the vicinity of the site proposed by defendant.

I am of the opinion that where railroads or other public service corporations have provided for future development and public convenience and necessity that they should be allowed to utilize the facilities so provided, if in the use of the same public convenience and necessity is not impaired.

I, therefore, submit the following order:

ORDER.

W. H. Frazine, individually, and as chairman of Citizens' Committee of Empire, Stanislaus County, California, having filed with this Commission a complaint against The Atchison, Topeka and Santa Fe Railway Company in the proceeding entitled as above, and The Atchison, Topeka and Santa Fe Railway Company having filed with this

Commission its answer, and a public hearing having been held and evidence having been presented by both parties, and the case having been submitted, and the Commission finding as a fact that the site for the proposed depot of The Atchison, Topeka and Santa Fe Railway Company north of Main street, or the Waterford road, as desired by plaintiff is inconvenient and unreasonable as to passenger and freight traffic moving over defendant's main line and sidetracks, and that a convenient and reasonable site for said depot would be on the property of defendant south of Main street, or the Waterford road, on the west side of defendant's main line track, and that defendant should erect thereon a passenger and freight depot, and basing its order on the findings contained herein, and the opinion which precedes this order,

It is hereby ordered that defendant shall within ninety (90) days from the service on it of this order present to the Railroad Commission for its approval, plans for a passenger and freight depot, the estimated cost of which, together with the necessary track facilities, shall be not less than \$10,000.00, same to be erected on the property of defendant at least eight hundred (800) feet south of Main street, or the Waterford road, and on the west side of defendant's main line track, and shall within six (6) months after the approval by this Commission of such plans, build on said property such passenger and freight depot as shall be approved by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of August, 1913.

Decisions Nos. 859 and 860, grade crossings; not printed. See end of volume.

DECISION No. 861.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY FOR PERMISSION TO CONSTRUCT SUBGRADE CROSSINGS UNDER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY NEAR McAVOY, CONTRA COSTA COUNTY, CALIFORNIA.

Application No. 296.

Decided August 13, 1913.

Petition of the Santa Fe Railway asking for a modification of Commission's order of December 3, 1912, relative to sharing of the expense of a subgrade crossing, denied.

Jesse Steinhart, for Oakland, Antioch and Eastern Railway.

E. W. Camp, for Atchison, Topeka and Santa Fe Railway Company.

George D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This was a hearing in the above entitled matter on the petition of the Atchison, Topeka and Santa Fe Railway Company for a modification of the order of this Commission rendered December 3, 1912, in so far as that order specifies the division of the cost of the subgrade crossing affected. The Commission by its said order authorized the Oakland, Antioch and Eastern Railway to construct its line of railway below grade at crossing proposed with the parallel tracks of the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company near McAvoy, in Contra Costa County, subject to the condition, among others, that "the cost of constructing the subgrade crossings shall be borne one half by applicant (Oakland, Antioch and Eastern Railway), one quarter by the Atchison, Topeka and Santa Fe Railway Company, and one quarter by the Southern Pacific Company."

The Atchison, Topeka and Santa Fe Railway Company now asks for a modification of the order in so far as it relates to the sharing of the expense, on the ground that it had reached an agreement with the Oakland, Antioch and Eastern Railway prior to the making of the Commission's order, which agreement was contained in a series of letters, and provided in part that the Santa Fe should be called upon to pay one half of the expense of the subgrade crossing only in so far as the crossing was constructed under its own right of way. The Oakland, Antioch and Eastern Railway guaranteed to the Atchison, Topeka and Santa Fe Railway Company that the latter company's proportion of the expense would not exceed the sum of \$23,228.67. The Oakland, Antioch and Eastern Railway contends that this guarantee was made on the assumption that the crossing would be considered in two units, and that each unit would be considered by itself, the dividing line being the common right of way line between the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company.

The Commission, after considering all of these matters, reached the conclusion that the proper principle would be to consider the crossing as a whole, and to provide that one half of the entire cost should be borne by the Oakland, Antioch and Eastern Railway and one quarter each by the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company.

The Atchison, Topeka and Santa Fe Railway Company introduced no evidence as to the difference in cost to this company under the two plans, but based its application for a modification of the order entirely on the agreement which it claims was entered into with the Oakland, Antioch and Eastern Railway prior to the date of the Commission's order. Mr. Camp, representing the Atchison, Topeka and Santa Fe Railway Company, stated that the difference in cost would probably in no event exceed \$1,500.00. The Southern Pacific Company does not have the same understanding with reference to the purported agreement as the Atchison, Topeka and Santa Fe Railway Company, and takes the position that it was never agreed that the cost should be determined on the basis of two units instead of one.

The sole question at issue on the evidence on this application is whether the Commission is bound by agreements which railway companies may enter into with reference to the division of the expense of crossings prior to the Commission's order. Under the provisions of section 43 of the Public Utilities Act, this Commission clearly has authority over this subject matter. Railroad companies can not, by agreement between themselves, oust the Commission of this jurisdiction. While the Commission will give weight to the views of railroad companies in connection with such crossings, the Commission must exercise its authority in view of the weight which will be given to precedents established by it, and bearing in mind the necessity of considering underlying principles in cases of this kind and of establishing such principles as may be correct. In this case the Commission reached the conclusion that the arrangement for which the Atchison, Topeka and Santa Fe Railway Company contended was not correct in principle, and accordingly entered the order hereinbefore referred to.

No good reason was presented at the hearing why this order should be changed. I accordingly recommend that the petition of the Atchison, Topeka and Santa Fe Railway Company be denied and submit herewith the following form of order:

ORDER.

Atchison, Topeka and Santa Fe Railway Company having made application to this Commission for a modification of that portion of its order of December 3, 1912, in the above entitled proceeding which refers to the sharing of the expense of the subgrade crossings therein referred to, and a public hearing having been held upon said application, and no good reason appearing for granting said application,

It is hereby ordered that said application be and the same is hereby denied, and that this Commission's order dated December 3, 1912, be and the same is hereby affirmed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of August, 1913.

DECISION No. 862.

IN THE MATTER OF THE APPLICATION OF THE VENTURA
COUNTY POWER COMPANY TO SELL TO THE CITY OF
OXNARD THE WATER SYSTEM OF THE VENTURA
COUNTY POWER COMPANY.

Application No. 675.

Decided August 11, 1913.

Application of the Ventura County Power Company to sell its water works at Oxnard to the city of Oxnard for \$30,000.00 granted.

Joseph Sailer, president of the Board of Trustees, with two members of the board; and *Charles F. Blackstock*, city attorney, for the city of Oxnard.

F. W. Hunter, president Ventura County Power Company, for the Ventura County Power Company.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

This is an application of the Ventura County Power Company to sell to the city of Oxnard the Oxnard Water Works System, located at Oxnard, Ventura County, California, for the sum of \$30,000.00.

The Oxnard water works system comprises real estate located in Oxnard, described as follows: All of lots 15 and 16, block "B," as the same are designated and delineated upon that certain map entitled "Map No. 4 of the Town of Oxnard, and North Addition to the Town of Oxnard," and recorded in the office of the county recorder of Ventura County in Book 5 of Miscellaneous Records (Maps), at page 9; each of said lots having a frontage of fifty feet on "B" street by a depth of one hundred and forty feet.

Said system also includes the distributing system used for the distribution of water in said city of Oxnard.

The Oxnard water works system comprehended in this application comprises but a small part of the property owned and operated by the

Ventura County Power Company, that company owning and operating water systems in various other cities and towns in Ventura County, California.

A financial statement of the Ventura County Power Company is submitted with the application and marked Exhibit "A." Reference is also made in the application to the report of the Ventura County Power Company on file with the Commission.

The Ventura County Power Company was incorporated in 1906 under the laws of the State of California, having its principal place of business in the city of Oxnard, county of Ventura, State of California, with an authorized capital stock of \$2,500,000.00 and an authorized bonded indebtedness of \$1,000,000.00, of which \$962,000.00 is now outstanding. It has an indebtedness of \$122,850.00, represented by unsecured one-day notes, and current indebtedness, at the time the application was made, of \$29,414.01. The interest on the bonds and the interest on the notes have been paid, but no dividends have ever been declared, the earnings above interest on bonds and floating indebtedness having been used for enlarging the plant and for betterments. The bonds draw interest at the rate of six per cent and were guaranteed by the Title Insurance and Trust Company of Los Angeles, trustee.

A condition of the trust mortgage recites that the trustee shall have the power to release from the effect of the mortgage, without substitution, any property designated by the Ventura County Power Company, which, in the judgment of the trustee, it has become inexpedient to hold or use for the purposes of the plant or business of the Ventura County Power Company, a condition being, however, that such release shall be subject to the approval, in writing, of Adams-Phillips Company and William R. Staats Company, and that in case of all such releases of land and buildings without substitution, subsequent to November 1, 1911, the trustee shall receive the proceeds of sale of any such released property and apply said proceeds to the purchase for cancellation at not exceeding par, accrued interest and a premium of one per cent any of the bonds secured thereby.

It was developed at the hearing that the written consent of Adams-Phillips Company and William R. Staats Company had been secured, but that the Title Insurance and Trust Company of Los Angeles, trustee, had not been consulted as to this particular transaction, although the president of the water company testified that there had been many transfers by the company which the trustee always approved when resolutions regularly passed by the company were presented to it.

The price to be paid for this water works system is not supposed to represent the fair value of the system, which value is, doubtless,

much in excess of \$30,000.00, mentioned as the consideration for this transfer. The reason given by the president of the water company for the willingness of that company to sell the Oxnard water works system at the price mentioned is that, on the fifth day of April, 1912, the city of Oxnard voted bonds in the sum of \$100,000.00 for the purpose of installing a municipal water works system; that said bonds have been sold and said water works system is now being constructed, the testimony showing that, at the completion of such municipal water works system the value of the Ventura County Power Company's Oxnard system would be greatly impaired, if not rendered practically useless. That, under such circumstances, the company preferred to sell the Oxnard water works system to the city of Oxnard.

The testimony showed, and I find as a fact, that the interests of the residents and water users of Oxnard will be best served by permitting this sale of the Oxnard water works system by the Ventura County Power Company to the city of Oxnard, and I recommend the following order, subject to conditions named:

ORDER.

Whereas the Ventura County Power Company has applied to the Railroad Commission of the State of California for permission to sell to the city of Oxnard the Oxnard water works system, located at Oxnard, California; and

Whereas a hearing has been regularly held and it has been found as a fact that the interests of the residents and water users of Oxnard will best be served by permitting said sale and transfer; now, therefore,

Be it ordered that the Ventura County Power Company be and it is hereby granted permission to sell the Oxnard water works system to the city of Oxnard, consideration for such sale and transfer to be \$30,000.00; such sale and transfer to be subject to the condition that the Ventura County Power Company shall file with the Railroad Commission of the State of California copy of resolution regularly passed by its board authorizing said sale and transfer, and shall also file with the Railroad Commission, in writing, the approval of the Title Insurance and Trust Company of Los Angeles, trustee, of such sale and transfer, this order not to be effective until such copy of resolution of the board of directors of the Ventura County Power Company and approval by said trustee shall have been filed with the Railroad Commission of the State of California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California. this 11th day of August, 1913.

DECISION No. 863.

IN THE MATTER OF THE APPLICATION OF WESTERN ELECTRIC COMPANY TO SELL, AND PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE. THE TELEPHONE EXCHANGE PLANT LOCATED AT PORTOLA, PLUMAS COUNTY, CALIFORNIA.

Application No. 579.

Decided August 11, 1913.

Application of Western Electric Company to sell its telephone plant at Portola to The Pacific Telephone and Telegraph Company for \$466.31 granted.

H. A. Johnson, for Applicants.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This small telephone plant was originally started by the Western Electric Company, and about two years ago was sold to Mr. C. H. Gardner for the sum of \$580.00. Mr. Gardner made a small cash payment, leaving a balance of \$413.00, for which he gave a ninety-day note. He defaulted in the payment of principal and interest of the note, and the Western Electric Company took possession of the property under foreclosure sale January 8, 1913, having bid it in at sheriff's sale for \$575.00.

Not being in the business of operating telephones, the Western Electric Company asked permission to permit The Pacific Telephone and Telegraph Company to operate this exchange until arrangements could be made for sale. This application was made January 11, 1913, and was approved by the Commission February 22, 1913.

Application is now made by the Western Electric Company to sell to The Pacific Telephone and Telegraph Company, which company joins by an application to purchase.

Mr. H. A. Johnson, appearing for the applicants, claims to be familiar with the local conditions sufficiently to warrant him in saying that there were no objections on the part of patrons of this exchange; that on the contrary it would be greatly to the benefit of the subscribers to permit the sale to The Pacific Telephone and Telegraph Company.

In addition to the rates for this exchange, now on file with the Commission, it is proposed to put in a one-party rate applying both to residence and business houses, as follows:

One-party rate for residences—

Wall telephones ----- \$2 00 per month

Portable desk telephones ----- 2 25 per month

One-party rate for business houses—

Wall telephones ----- 2 50 per month

Portable desk telephones ----- 2 75 per month

Subscribers desiring the improved service which these telephones will provide may arrange to have it.

I find, as a matter of fact, that the convenience of the public will be served by granting the application and recommend the following order, subject to condition mentioned:

ORDER.

The Western Electric Company having asked permission to sell, and The Pacific Telephone and Telegraph Company to purchase the telephone exchange plant located at Portola, Plumas County, California, for the sum of \$466.31; and it having been found that the interests of the subscribers to this exchange and of the public will be best served by permitting this sale and purchase,

It is hereby ordered that the Western Electric Company be and it is permitted to sell, and The Pacific Telephone and Telegraph Company be and it is permitted to purchase the telephone exchange plant located at Portola, Plumas County, California, for the sum of \$466.31, subject to the following condition, namely: That The Pacific Telephone and Telegraph Company file with this Commission a stipulation that the rates now being charged to patrons at Portola are satisfactory and that no advance in said rates is contemplated, and no change, other than the application of the one-party rate explained above.

It is further ordered that this price need not be binding upon this Commission or other regulatory body as a fair value of the property for rate fixing purposes.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of August, 1913.

DECISION No. 864.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS
AND ELECTRIC COMPANY FOR AN ORDER AMENDING
ORDERS HERETOFORE MADE BY THIS COMMISSION
UPON APPLICATIONS NOS. 552 AND 603.

Application No. 676.

Decided August 11, 1913.

Held, Applicant permitted to execute a general lien mortgage and a supplemental agreement thereto; to issue \$5,000,000.00 face value of six per cent ten-year general lien bonds under said mortgage; to pledge said bonds as security for demand notes in the sum of \$4,500,000.00 and as security for an issue of collateral trust notes, said notes to be issued under certain agreements, and that applicant be permitted to issue its common stock at 80 in exchange for any of said bonds.

Held, That applicant be permitted to pledge its general and refunding mortgage bonds, of the face value of \$5,000,000.00 as security for an issue of demand notes.

Held, That the \$5,000,000.00 convertible general lien bonds herein authorized shall be in substitution and not in addition to \$5,000,000.00 of convertible debentures previously authorized.

Held, All issues of bonds, stocks, and notes herein authorized subject to certain conditions incorporated in this decision.

W. B. Bosley and C. P. Cutton, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

On May 15, 1913, this Commission issued an order upon Application No. 552 authorizing Pacific Gas and Electric Company to execute a mortgage of its property to Savings Union Bank and Trust Company, of San Francisco, as trustee, and to issue thereunder \$5,000,000.00 of its six per cent ten-year convertible debentures.

This order authorized also the pledge of all, or a portion, of these debentures as collateral security for a loan or loans, and authorized also an issue of common stock in exchange for these debentures under that portion of the mortgage providing for such conversion.

On June 20, 1913, this Commission issued an order upon Application No. 603 authorizing Pacific Gas and Electric Company to issue \$5,000,000.00 of its thirty-year five per cent general and refunding mortgage bonds, and to pledge a portion of said bonds.

Pacific Gas and Electric Company now applies to this Commission for an order amending the authorizations heretofore given upon Applications Nos. 552 and 603.

Applicant states that it has found it inadvisable in the present depressed condition of the money market to sell the bonds or debentures heretofore authorized, and that it has determined to issue collateral trust notes.

The applicant states further that it has been found inadvisable to execute the convertible debenture mortgage to Savings Union Bank and Trust Company, of San Francisco, and it proposes, in lieu thereof, to execute a general lien mortgage and to issue thereunder convertible general lien bonds in lieu of convertible debentures previously authorized by this Commission.

The evidence indicates that in all of the more essential particulars the provisions of the general lien mortgage are identical with those of the convertible debenture mortgage. The principal changes consist of a substitution of trustee and in somewhat stricter regulation of future issues under this mortgage.

The general plan of financing, which the applicant proposes to pursue, contemplates the deposit of \$5,000,000.00 of general and refunding bonds and a deposit of \$5,000,000.00 of general lien bonds as security for collateral trust notes in the aggregate not to exceed \$7,000,000.00. These notes will mature on June 25, 1914.

The applicant states that this form of financing is adopted merely to meet the exigencies of the situation, and that it plans within the year to finance itself with long term obligations. Obviously, this form of financing is not one which the Commission cares to encourage. The applicant herein has offered evidence, however, of its firm intention to substitute for this temporary device a broad financial plan.

The applicant has suspended dividends on its common stock, which have heretofore called for an annual outlay in excess of \$1,500,000.00, and this money will be available for other corporate purposes.

The applicant states that it is its purpose to devote the proceeds from the sale or pledge of its general lien bonds and its general and refunding bonds to the same purposes for which the convertible debentures and the general and refunding bonds were authorized to be issued in this Commission's orders upon Applications Nos. 552 and 603.

Applicant herein asks specifically for an order granting authority, as follows:

(1) To execute in lieu of the debenture mortgage, heretofore authorized, its general lien mortgage and the supplemental agreement thereto.

(2) To sell \$5,000,000.00 of its six per cent ten-year convertible general lien bonds at not less than ninety-five per cent of their face value in lieu of the \$5,000,000.00 of convertible debentures heretofore authorized.

(3) To pledge said six per cent convertible general lien bonds as security for certain demand notes and collateral trust notes.

(4) To issue its common stock in exchange for said six per cent convertible general lien bonds, in accordance with the terms of its general lien mortgage.

(5) To pledge its general and refunding mortgage bonds, in the sum of \$5,000,000.00, as collateral security for certain demand notes and collateral trust notes.

(6) To execute demand notes to the amount of \$4,500,000.00 upon the collateral security of \$5,000,000.00 of general lien bonds and \$3,200,000.00 of general and refunding bonds, said notes to bear interest at not to exceed six per cent.

Applicant has now outstanding a demand note for \$1,192,500.00 and asks for authority to refund this note with new demand notes.

It is the purpose of applicant, also, at a later date, to refund its demand notes in the sum of \$4,500,000.00 by an issue of collateral trust notes in the same sum, and to issue thereafter \$2,500,000.00 of additional collateral trust notes.

Applicant testifies that the collateral trust notes and the demand notes which it desires to issue will mature within a period of one year, but as bonds, the issue of which is subject to the jurisdiction of the Commission, are to be hypothecated as collateral security for these notes, the terms and conditions of such notes are proper subjects for consideration herein.

In General Order No. 35, this Commission held that a demand note would require a regular authorization.

The other five proposals require an amendment of orders previously issued by this Commission. I believe that the previous orders may be amended so as to make possible the form of financing now proposed by applicant. This authority is given in view of the financial conditions now existing, and in view also of the expressed intention of the applicant herein to discontinue paying dividends and devote its earnings to the liquidation of indebtedness, and to the construction of additional facilities, and by reason of the further intention of the applicant herein within the year to lay out a financial plan, which will admit of long-term financing.

I recommend that the application be granted, and submit the following order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for authority:

(1) To execute, in lieu of the debenture mortgage to Savings Union Bank and Trust Company, of San Francisco, as heretofore authorized by this Commission in its order upon Application No. 552, a general lien mortgage to Guaranty Trust Company of New York and William C. Cox, as trustees, dated July 1, 1913, a copy of which is on file with

this Commission in the application herein and marked Exhibit No. 5; and an agreement supplemental thereto between Pacific Gas and Electric Company, Guaranty Trust Company of New York and William C. Cox, Harris Forbes & Company and N. W. Halsey & Company and Bankers' Trust Company, dated July 1, 1913, substantially in the form of a copy of said agreement on file with this Commission in the application herein and marked Exhibit 4;

(2) To issue and sell \$5,000,000.00 of its six per cent ten-year convertible general lien bonds, under said mortgage, to Guaranty Trust Company of New York and William C. Cox, as trustees, and said supplemental agreement thereto, in lieu of \$5,000,000.00 of six per cent ten-year convertible debentures heretofore authorized in this Commission's order upon Application No. 552, and to sell said \$5,000,000.00 of convertible general lien bonds at not less than ninety-five per cent of the par value thereof;

(3) To pledge said six per cent convertible general lien bonds as collateral security for \$4,500,000.00 of demand notes, and as collateral security for collateral trust notes;

(4) To issue its common stock in exchange for any or all of said six per cent convertible general lien bonds, upon the terms of said general lien mortgage, providing for the conversion of said general lien bonds into common stock upon the basis of not less than \$80.00 per share for said common stock;

(5) To pledge its general and refunding mortgage bonds of the par value of \$5,000,000.00 as collateral security for certain demand notes, and as security for certain collateral trust notes;

(6) To execute demand notes to the amount of \$4,500,000.00 upon the collateral security of \$5,000,000.00 of general lien bonds, as above noted;

And a hearing having been held,

It is hereby ordered that Pacific Gas and Electric Company be given authority, and it is hereby given authority, to execute its general lien mortgage to Guaranty Trust Company of New York and William C. Cox, as trustees, substantially in the form of a copy of said general lien mortgage on file with this Commission in connection with the application herein and marked Exhibit No. 5; and to execute an agreement supplemental thereto between Pacific Gas and Electric Company, Guaranty Trust Company of New York and William C. Cox, Harris Forbes & Company and N. W. Halsey & Company and Bankers' Trust Company, substantially in the form of a copy of said agreement on file with this Commission in connection with the application herein and marked Exhibit No. 4.

It is further ordered that Pacific Gas and Electric Company be given authority, and it is hereby given authority, to issue \$5,000,000.00 face

value of its six per cent ten-year convertible general lien bonds, under said general lien mortgage, dated July 1, 1913, and said agreement supplemental thereto, said bonds maturing on July 1, 1923.

It is further ordered that Pacific Gas and Electric Company be given authority, and it is hereby given authority, to pledge its six per cent convertible general lien bonds, herein authorized to be issued, as collateral security for demand notes in the sum of \$4,500,000.00 under agreements between Pacific Gas and Electric Company and Harris Forbes & Company and N. W. Halsey & Company, dated June 28, 1913, and July 15, 1913; and as collateral security for an issue of collateral trust notes, dated July 1, 1913, and maturing June 25, 1914, under said agreements entered into between Pacific Gas and Electric Company and Harris Forbes & Company and N. W. Hasley & Company, dated June 28, 1913, and July 15, 1913.

It is further ordered that Pacific Gas and Electric Company be authorized, and it is hereby authorized, to issue its common stock in exchange for any of said six per cent convertible general lien bonds, in accordance with the terms of said general lien mortgage.

It is further ordered that Pacific Gas and Electric Company be given authority, and it is hereby given authority, to pledge its general and refunding mortgage bonds of the par value of \$5,000,000.00, heretofore authorized by this Commission, in its order upon Application No. 603, as collateral security for an issue of demand notes under the terms of its agreements with Harris Forbes & Company and N. W. Halsey & Company, dated June 28, 1913, and July 15, 1913; and as collateral security for an issue of collateral trust notes, dated July 1, 1913, and maturing June 25, 1914, under the terms of its said agreements with Harris Forbes & Company and N. W. Halsey & Company, dated June 28, 1913, and July 15, 1913.

It is further ordered that Pacific Gas and Electric Company be authorized, and it is hereby given authority, to execute its demand notes to the amount of \$4,500,000.00 upon the collateral security of \$5,000,000.00 of general lien bonds, as hereinbefore set forth.

It is further ordered that the order of this Commission upon Application No. 603, dated June 20, 1913, be amended to the end that the \$5,000,000.00 of general and refunding mortgage bonds therein authorized to be issued, may be pledged as collateral security, for notes in accordance with the order herein.

It is hereby ordered that the proceeds from the sale or pledge of said \$5,000,000.00 of general and refunding bonds be used only for the purposes specified in this Commission's order, dated June 20, 1913, upon Application No. 603.

It is hereby ordered that the proceeds from the sale or pledge of said \$5,000,000.00 of convertible general lien bonds, herein authorized to be

issued, be used only for the purposes specified in this Commission's order, dated May 15, 1913, upon Application No. 552.

It is hereby ordered that the authority herein given to issue or pledge said \$5,000,000.00 of convertible general lien bonds is given in lieu of the authority given in this Commission's order, dated May 15, 1913, upon Application No. 552, and the \$5,000,000.00 of convertible general lien bonds, herein authorized to be issued, shall be in substitution and not in addition to the said issue of \$5,000,000.00 of convertible debentures.

It is hereby ordered that Pacific Gas and Electric Company be authorized, and it is hereby authorized, to issue such common stock as may be required under its general lien mortgage in exchange for such convertible general lien bonds as are herein authorized to be issued.

The authority herein given to issue or pledge said \$5,000,000.00 of convertible general lien bonds, and to pledge \$5,000,000.00 of general and refunding bonds, is given upon the following conditions and not otherwise:

(1) Pacific Gas and Electric Company shall file a statement with this Commission to the effect that its proposed mortgage to Savings Union Bank and Trust Company, of San Francisco, to secure an issue of \$5,000,000.00 of its six per cent ten-year convertible debentures has not been executed, that no convertible debentures have been issued, and that it is the intention of the company not to execute said debenture mortgage to Savings Union Bank and Trust Company, of San Francisco, nor to issue said convertible debentures.

The authority heretofore given the Pacific Gas and Electric Company to execute its proposed mortgage to the Savings Union Bank and Trust Company, of San Francisco, and to issue thereunder \$5,000,000.00 of six per cent ten-year convertible debentures, is hereby canceled.

(2) The \$5,000,000.00 of general lien bonds, herein authorized to be issued, shall be sold at a price which shall net applicant not less than ninety-five per cent of the face value thereof, plus accrued interest thereon.

(3) The stock herein authorized to be issued shall be issued only in exchange for said general lien bonds herein authorized, and said stock shall be issued at not less than \$80.00 per share, and on such terms and conditions as are prescribed in applicant's general lien mortgage to Guaranty Trust Company of New York and William C. Cox, as trustees, to which reference has heretofore been made.

(4) The authority herein given to sell or hypothecate said general lien bonds and to hypothecate said general and refunding bonds shall apply to said general lien bonds and to said general refunding bonds as shall be sold or hypothecated before July 1, 1914.

(5) Pacific Gas and Electric Company shall file with this Commis-

sion monthly statements showing the number of general lien bonds and of general and refunding bonds which may be pledged as collateral security for demand notes and collateral trust notes and the amount of demand or collateral trust notes issued therefor, the maturities and rates of interest of said notes.

(6) Pacific Gas and Electric Company shall file with this Commission each month a statement of all stock issued under the order herein, and the conditions of such issue and the amount of said general lien bonds converted into stock.

(7) Pacific Gas and Electric Company shall keep separate, true and accurate accounts, showing the receipt and application of the proceeds of the sale of the stock and the sale or pledge of the general lien bonds herein authorized to be issued and of the pledge of the general and refunding bonds herein authorized to be pledged; and on or before the twenty-fifth day of each month, it shall make verified reports to this Commission stating sales, pledge, or the conversion of said stock, general lien bonds and general and refunding bonds during the preceding month, the terms and conditions of sales, the moneys or properties realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(8) The authority herein given to issue stock, to issue and pledge general lien bonds, and to pledge general and refunding bonds, shall apply only to such stock, general lien bonds and general and refunding bonds as may be sold or pledged on or before July 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of August, 1913.

Decisions Nos. 865, 866 and 867, grade crossings; not printed. See end of volume.

DECISION No. 868.

IN THE MATTER OF THE APPLICATION OF BURBANK ELECTRIC LIGHT AND POWER COMPANY FOR PERMISSION TO SELL ITS ENTIRE SYSTEM TO THE CITY OF BURBANK, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 611.

Decided August 13, 1913.

Application of the Burbank Electric Light and Power Company to sell its plant to the city of Burbank for \$3,212.50 granted.

Charles E. Salisbury, for Burbank Electric Light and Power Company.
Victor T. Watkins, for the City of Burbank.
J. W. Fawkes, Protestant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Burbank Electric Light and Power Company to sell its entire system to the city of Burbank. The city of Burbank has joined in the application.

The application alleges that on June 29, 1912, the city of Burbank awarded to G. H. Deacon a franchise to construct, maintain and operate an electric pole and wire system in the city of Burbank; that in accordance with an order of this Commission made on October 14, 1912, in Application No. 187, and reported in Volume I of the Decisions of the Railroad Commission of California, page 722, G. H. Deacon transferred his franchise to Burbank Electric Light and Power Company; that this company has erected certain poles and has done certain other work in the construction of an electric light and power system in the city of Burbank; that it is the desire of the city of Burbank to install a municipal light and power system and to this end the city has voted to incur a bonded indebtedness in the sum of \$20,000.00; that the city desires to purchase the entire system of the Burbank Electric Light and Power Company for the sum of \$3,212.50.

In the franchise originally granted to G. H. Deacon it was provided in section 20 thereof that if at any time the city of Burbank should wish to purchase the distributing system provided for in the franchise, an appraisal of the system should be made. It was provided that this appraisal should be made by three appraisers, one selected by the city, one by the owner of the electrical system and the third chosen by these two. It was further provided that these appraisers should determine the value of the entire system and fix the terms of payment therefor.

Appraisers have been appointed in accordance with the procedure outlined in the franchise and have determined the value to be given to the system in this exchange to be \$3,212.50. This amount has been segregated by the appraisers as follows:

| | |
|--|------------|
| 210 poles at \$6.75..... | \$1,417 50 |
| Miscellaneous material on hand..... | 100 00 |
| Franchise | 573 10 |
| Legal expenses, stock certificates, etc..... | 100 00 |
| Salaries, canvassing expenses and interest on investment for a period of six months, etc..... | 971 40 |
| | <hr/> |
| | \$3,212 50 |

Burbank Electric Light and Power Company has not yet been able to serve any consumers. The system is still in the construction stage,

and I believe that the sum of \$3,212.50 represents the fair value of the entire system to be transferred. I believe that public convenience will be subserved by granting the application, and submit herewith the following form of order:

ORDER.

Burbank Electric Light and Power Company having applied to this Commission for permission to sell to the city of Burbank, for the sum of \$3,212.50, its entire electrical system in the city of Burbank, and the city of Burbank having joined in the application, and a public hearing having been held thereon,

It is hereby ordered that Burbank Electric Light and Power Company be and it hereby is authorized to sell to the city of Burbank, for the sum of \$3,212.50, its entire electrical system in the city of Burbank, together with the franchise heretofore granted to said company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of August, 1913.

DECISION No. 869.

IN THE MATTER OF THE APPLICATION OF MIRADERO
WATER COMPANY FOR PERMISSION TO SELL TO THE
CITY OF BURBANK, LOS ANGELES COUNTY, CALI-
FORNIA, A CERTAIN PORTION OF ITS WATER SYSTEM.

Application No. 595.

Decided August 13, 1913.

Application of the Miradero Water Company to sell a portion of its water system to the city of Burbank for \$20,000.00 granted.

W. G. Cooke, for the Miradero Water Company.

Victor T. Watkins, for the City of Burbank.

J. W. Fawkes et al., Protestants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by the Miradero Water Company to sell to the city of Burbank that portion of its water system which lies within the limits of said city.

The application alleges that the city of Burbank has authorized the

creation of a bonded indebtedness to the amount of \$50,000.00 for the purpose of constructing and acquiring a municipal water system; that the city desires to use \$20,000.00 of this sum to purchase a portion of the system of the Miradero Water Company. The property to be transferred lies entirely within the city limits of Burbank except a portion of the reservoir site which extends beyond the city limits. The Miradero Water Company also serves the city of Glendale, but none of the property involved in this transfer is used in serving the latter city.

J. W. Fawkes, representing a number of citizens and taxpayers in the city of Burbank, protested against the granting of this application on the ground that the pipe lines, and certain other properties of the system, were in a poor state of repair and badly depreciated, and that the value of the meters installed on the system having been paid for by the consumers should not be included in an estimate of the purchase price of the system. To determine the present condition of the mains laid in the city of Burbank, samples of such pipe taken from various points throughout the system were submitted at the hearing and examined by the engineers of the Commission. The Commission's engineers have investigated the system and checked over the appraisals and have estimated the value of the portion of the system to be transferred, exclusive of meters and real estate, to be \$13,780.00. The value of the real estate to be transferred was not disputed and was estimated at \$6,900.00. It is true that some of the mains constituting the system to be transferred have been installed for about twenty-five years. The quality of the pipe, however, and the character of the soil in which it is laid are of such a nature that I believe the present work of the pipe is reasonably equal to the value reported by the engineers of the Commission. I can not agree with the protestants that this pipe has out-served its usefulness, nor do I believe that the city is paying an excessive price for the property it is to acquire.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Miradero Water Company having applied to this Commission for permission to sell to the city of Burbank for \$20,000.00 a portion of its water system lying mostly within the limits of said city, and the city of Burbank having joined in this application, and a public hearing having been held thereon;

It is hereby ordered that Miradero Water Company be and it hereby is authorized to sell to the city of Burbank, for the sum of \$20,000.00, that portion of its water system which lies within the limits of said city, the property to be transferred being more particularly described in the following inventory filed by Miradero Water Company:

"REAL ESTATE.

Lots 8, 9, 10, 11, 12 and 13 in Block 'B,' and Lots 1, 3, 6 and 7 in Block 77, and Lots 1 to 8, both inclusive, in Block 76 of the town of Burbank, as per map recorded in Book 17, page 19, Miscellaneous Records of Los Angeles County, in the city of Burbank, county of Los Angeles, State of California;

Also, a portion of Lot 128 of the town of Burbank as per map recorded in Book 17, page 19 of Miscellaneous Records of Los Angeles County, California, and a portion of Eleventh street vacated by the board of trustees of the city of Burbank as per Resolution of Intention No. 2, adopted on the 11th day of November, 1911, and being more particularly described as follows: Beginning at the intersection of the center lines of Magnolia avenue and Eleventh street as shown on said map of the town of Burbank; thence south $48^{\circ} 44' 30''$ east along the center line of said Eleventh street and the prolongation thereof 571.00 feet to a point situated north $48^{\circ} 44' 30''$ west 216.50 feet from the center line of Orange Grove avenue; thence north $41^{\circ} 15' 30''$ east 627.15 feet; thence north $26^{\circ} 58' 30''$ west 615.06 feet to the center line of Magnolia avenue; thence south $41^{\circ} 15' 30''$ west along said center line 855.20 feet to the point of beginning.

Excepting therefrom any portion of the above described parcel of land which may be included in any public street or avenue.

PIPE LINES.

| | Feet. | Standard size. |
|---|-------|----------------|
| Alley between Cypress and Magnolia----- | 6,370 | 2-inch |
| Alley between Magnolia and Palm----- | 6,370 | 2-inch |
| Alley between Palm and Orange Grove----- | 6,270 | 2-inch |
| Alley between Orange Grove and Olive----- | 6,270 | 2-inch |
| Alley between Olive and Angeleno----- | 6,270 | 2-inch |
| Alley between Angeleno and Tehunga----- | 6,270 | 2-inch |
| Alley between Tehunga and Verdugo----- | 6,270 | 2-inch |
| Alley between Verdugo and Provedentia----- | 6,270 | 2-inch |
| Seventh street between alley south of Tehunga to Santa Anita--- | 570 | 2-inch |
| Alley between Tehunga, south of Santa Anita----- | 465 | 2-inch |
| Fourth street between Verdugo and Santa Anita----- | 190 | 2-inch |
| Alley between Second and Fourth streets south of Verdugo----- | 900 | 2-inch |
| Alley between Verdugo and Santa Anita north of Second street--- | 190 | 2-inch |
| Alley between north of Front street between Cypress and Verdugo | 3,100 | 2-inch |

Total 2-inch standard pipe----- 55,775

| | Feet. | Inches. |
|--|-------|-----------------|
| South of Magnolia on Seventh street to Verdugo----- | 1,900 | 5-inch casing |
| Pump line Front street----- | 850 | 6-inch steel |
| Eleventh street between alley north of Magnolia to east of Verdugo ----- | 3,080 | 6-inch castiron |
| Eleventh street alley north of Provedentia east to city limits ----- | 1,650 | 8-inch steel |
| Second and Seventh streets south of Olive----- | 300 | 1½-inch |
| 1,400 service pipes----- | | ¾-inch |

Gates—2 10-inch; 2 6-inch; 42 2-inch; 230 ¾-inch.

Meters—1 6-inch; 2 2-inch; 210 ¾-inch by ¾-inch; 213 boxes.

Well and Site—1 10-inch 440 feet deep; 1 3½-inch pump; 1 gas engine, 8 horsepower; 1 engine house; 8 fire plugs.

Reservoir—1 reservoir, 150 by 160 by 10; 1 reservoir covering; reservoir site, 9 acres."

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of August, 1913.

Decisions Nos. 870 and 871, grade crossings; not printed. See end of volume.

DECISION No. 872.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR AN AMENDMENT OF THE ORDER OF THE RAILROAD COMMISSION, DATED JUNE 29, 1912, SO AS TO AUTHORIZE THE PLEDGE OF BONDS TO SECURE LOANS AGGREGATING ONE HUNDRED THOUSAND DOLLARS.

Application No. 38.

Decided August 13, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER ON SUPPLEMENTAL APPLICATION.

This Commission having heretofore, on the 21st day of June, 1913, made its order in the above entitled matter authorizing the issue of applicant's bonds numbered 186 to 385, inclusive, on the conditions therein specified, and it now appearing that applicant has made a mistake with reference to the numbers of the bonds, and that the numbers which applicant intended to present to the Commission were bonds numbered 196 to 395, inclusive,

It is hereby ordered that said order be amended so that the words "bonds numbered 196 to 395" may be substituted for the words "bonds numbered 186 to 385," to be found in the second line of said order. In all other respects said order shall remain in full force and effect.

Dated at San Francisco, California, this 13th day of August, 1913.

DECISION No. 873.

IN THE MATTER OF THE APPLICATION OF TULARE COUNTY POWER COMPANY FOR PERMISSION TO ISSUE TO THOMAS C. JOB PROMISSORY NOTES, FACE VALUE OF FIFTY THOUSAND DOLLARS, SECURED BY ITS SIX PER CENT GOLD BONDS OF THE PAR VALUE OF SIXTY-SIX THOUSAND FIVE HUNDRED DOLLARS.

Application No. 694.

IN THE MATTER OF THE APPLICATION OF TULARE COUNTY POWER COMPANY FOR PERMISSION TO ISSUE TO THOMAS C. JOB A PROMISSORY NOTE OF THE FACE VALUE OF THREE THOUSAND TWO HUNDRED FORTY-THREE DOLLARS AND EIGHTY-TWO CENTS, SECURED BY EIGHT OF ITS SIX PER CENT GOLD BONDS OF THE PAR VALUE OF FOUR THOUSAND DOLLARS.

Application No. 695.

Decided August 15, 1913.

Held, That applicant be permitted to issue promissory notes in the sum of \$50,000.00, and to pledge its bonds of the face value of \$66,500.00 as security for same.

Held, Permission to issue a note for interest in the sum of \$3,243.82 and to pledge bonds of the face value of \$4,000.00 as security for same denied.

Thomas C. Job, for Applicant and himself.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Tulare County Power Company having, in Application No. 694, applied to this Commission for permission to issue to Thomas C. Job ten promissory notes of the face value of \$5,000.00 each, said notes to be issued to refund notes of applicant of the face value of \$50,000.00, now held by said Thomas C. Job, and to issue as collateral for said notes one hundred and thirty-three of applicant's six per cent gold bonds of the aggregate par value of \$66,500.00, said bonds being a portion of the six per cent gold bonds of the aggregate par value of \$300,000.00 which applicant has heretofore been authorized to issue as collateral under this Commission's order made on February 20, 1913, in Application No. 368;

And it appearing that the notes which applicant desires to issue are to be made payable on September 13, 1913, and that applicant has a

number of other notes maturing on said day, and that while it might be inadvisable to permit applicant to issue additional notes to mature on that day, and this objection having been met by a stipulation of Thomas C. Job to the effect that, providing other creditors of applicant allow an extension of time beyond September 13, 1913, within which their obligations may be paid, said Thomas C. Job will make like extensions in the time permitted applicant to pay the obligations owing to said Thomas C. Job; and a public hearing having been held upon this application, and it appearing to the Commission that there is no good reason why the same should not be granted; and Tulare County Power Company having, in Application No. 695, requested permission to issue eight of its six per cent gold bonds of the aggregate par value of \$4,000.00 to secure a promissory note of the face value of \$3,243.82 to Thomas C. Job, said note representing the interest which has accrued upon the notes heretofore issued by applicant to said Thomas C. Job; and a public hearing having been held upon this application, and the Commission being of the opinion that the bonds of applicant should not be issued for the purpose requested in said application,

It is hereby ordered that Tulare County Power Company be and it hereby is authorized to issue to Thomas C. Job ten promissory notes of the face value of \$5,000.00 each upon the following conditions and not otherwise:

(1) Said notes shall be issued at a rate of interest of not more than seven per cent per annum and for a term of not more than six months.

(2) Said notes shall be issued to said Thomas C. Job to refund the following notes of applicant now held by said Thomas C. Job:

(a) Four notes, dated June 18, 1912, of the face value of \$5,000.00 each, payable to "ourselves," due sixty days after date.

(b) Three notes, dated June 29, 1912, of the face value of \$5,000.00 each, payable to "myself," due sixty days after date.

(c) Three notes, of the face value of \$5,000.00 each, dated July 13, 1912, payable to "myself," and due sixty days after date.

That Tulare County Power Company be and it hereby is authorized to pledge as collateral security for said notes its six per cent gold bonds, said bonds being a portion of the \$300,000.00 par value of said bonds which, by this Commission's order made on February 20, 1913, in Application No. 368, applicant was given permission to pledge as security for such notes as the Commission might thereafter approve, upon the condition, however, that bonds pledged as collateral to secure the notes herein authorized to be issued shall be pledged for not less than 75 per cent of their par value.

It is further ordered that Application No. 695 be and the same hereby is dismissed.

Tulare County Power Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the notes and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said notes and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The authority hereby given to issue notes and bonds shall apply only to notes or bonds issued by said company on or before the thirty-first day of December, 1913.

By order of the Railroad Commission.

Dated at San Francisco, California, this 15th day of August, 1913.

DECISION No. 874.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION ALTERING AND AMENDING ITS ORDERS HERETOFORE MADE ON APPLICATIONS NOS. 552 AND 603.

Application No. 676.

Decided August 16, 1913.

Order amending previous order of the Commission and permitting variations in terms of general lien mortgage of applicant.

REPORT OF THE COMMISSION.

ORDER ON SUPPLEMENTAL APPLICATION.

Whereas Pacific Gas and Electric Company has filed a supplemental application in the above entitled proceeding requesting that this Commission amend its order heretofore rendered in the above entitled proceeding on August 11, 1913, in the respects hereinafter set forth; and

Whereas it appears that, by reason of section 58 of chapter 104 of the Laws of 1913, approved May 9, 1913, known as the "Bank Act," doubts have arisen with reference to the powers of the trustees under general lien mortgage dated July 1, 1913, from Pacific Gas and Electric Company to Guaranty Trust Company of New York and William C. Cox, trustees; and

Whereas the alterations hereinafter authorized to be made in applicant's said general lien mortgage seem necessary in order to remove said doubts,

It is hereby ordered that this Commission's said order, dated August 11, 1913, in the above entitled proceeding, be and the same is hereby amended so as to authorize said Pacific Gas and Electric Company to execute to Guaranty Trust Company of New York and William C. Cox, as trustees, its general lien mortgage substantially in the form of a copy of said general lien mortgage which has been filed in connection with this application and marked "Exhibit 5, as amended, and referred to in supplemental order in Application No. 676, dated August 16, 1913," the respects in which said general lien mortgage as so filed differs from general lien mortgage heretofore filed as Exhibit 5 in this proceeding being as follows:

First—Add to article one a new section, numbered section 8, in the words and figures following, to wit:

"Section 8. Anything herein contained to the contrary notwithstanding it is hereby agreed that if at any time the Pacific Company shall execute any general lien bonds and shall deliver the same to the individual trustee with a written request that a specified amount of such bonds be authenticated and delivered by the individual trustee instead of by the corporate trustee and the Pacific Company shall have delivered to the individual trustee all of the resolutions, certificates, reports and other instruments which it is herein provided or which under any of the provisions hereof are required to be furnished to the corporate trustee prior to the authentication and delivery of such amount of bonds, and all of the other conditions, which it is provided under any of the provisions hereof shall be fulfilled prior to such authentication and delivery, shall have been fulfilled, strictly as provided herein, then the individual trustee shall authenticate and deliver to the Pacific Company, or on its order, the amount of general lien bonds so called for. All bonds so authenticated and delivered by the individual trustee shall be secured by this indenture and entitled to all the liens, rights and benefits hereunder. In case of any such authentication by the individual trustee the form of any bond so authenticated may be varied from the form hereinbefore set forth to the extent that said bond may state that it shall not be valid or become obligatory for any purpose unless authenticated by the certificate thereon endorsed of the individual trustee under this indenture, and in the form of authentication, appearing on such bond, an appropriate variation shall be made from the form hereinbefore set forth and in such case the authentication by the individual trustee upon any such bond shall be conclusive evidence and the only evidence that the bond so authenticated has been duly issued hereunder and that the holder is entitled to the benefit of the trust hereby created, anything herein to the contrary notwithstanding."

Second—Strike out the last paragraph on page 145, including first three lines on page 146.

Third—Insert the following two paragraphs at the end of section 3 on page 146:

“In case at any time the Pacific Company shall state in writing to the corporate trustee that it is advised that the exercise by the corporate trustee of any power conferred by the terms hereof or the performance by the corporate trustee of any act under this indenture would be unlawful under the laws of any jurisdiction, and shall request that such power be exercised or such act be performed by the individual trustee, and the corporate trustee shall consent thereto, the individual trustee may and he is hereby authorized to execute such power and perform such act with the same force and effect as if exercised and performed by the corporate trustee.

All of the provisions of this indenture with respect to the liability or responsibility of the corporate trustee in authenticating bonds or exercising or refraining from exercising any power or performing or refusing to perform any act under this indenture shall be deemed to refer to and include the liability and responsibility of the individual trustee in authenticating bonds or exercising or failing to exercise any power or performing or refusing to perform any act hereunder.”

Dated at San Francisco, California, this 16th day of August, 1913.

DECISION No. 875.

IN THE MATTER OF THE APPLICATION OF FULLERTON DOMESTIC WATER COMPANY FOR PERMISSION TO SELL ITS ENTIRE SYSTEM TO THE CITY OF FULLERTON, ORANGE COUNTY, CALIFORNIA.

Application No. 596.

Decided August 15, 1913.

Application of the Fullerton Domestic Water Company to sell its plant to the city of Fullerton for the sum of \$12,500.00 granted.

S. M. Haskins, for the Fullerton Domestic Water Company.

E. J. Marks, for the City of Fullerton.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by the Fullerton Domestic Water Company to sell its entire water system to the city of Fullerton. The city of Fullerton has joined in the application.

The application alleges that the city of Fullerton has undertaken to construct and acquire a municipal water plant and system, and that the city has voted to incur a bonded indebtedness of \$80,000.00 for this purpose; that the proposed municipal plant is intended to supply the entire city, including the portion thereof now served by the Fullerton Domestic Water Company; that on April 4, 1913, the city of Fullerton and the Fullerton Domestic Water Company entered into a contract of sale by the terms of which the city is to purchase from the Fullerton Domestic Water Company, for the sum of \$12,500, the entire water system of the latter, exclusive of bills receivable, free and clear of all incumbrances. A copy of this contract is attached to this opinion and order and marked "Exhibit A."

I am of the opinion that public convenience will be subserved by the granting of this application, and submit herewith the following form of order:

ORDER.

Fullerton Domestic Water Company having applied to this Commission for permission to sell its entire water system to the city of Fullerton upon the terms and conditions contained in a certain contract of sale, executed on April 4, 1913, and a copy of which is attached to this order and marked "Exhibit A," and the city of Fullerton having joined in this application, and a public hearing having been held thereon,

It is hereby ordered that Fullerton Domestic Water Company be and it is hereby is authorized to sell to the city of Fullerton its entire water system in said city upon the terms and conditions set forth in that certain contract of sale entered into between the city of Fullerton and the Fullerton Domestic Water Company on April 4, 1913, a copy of which contract is attached to this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

EXHIBIT "A."

AGREEMENT.

This memorandum of agreement made and entered into this fourth day of April, 1913, by and between the city of Fullerton, a municipal corporation of the sixth class, of Orange County, California, acting by and through its duly authorized officers, the party of the first part, and the Fullerton Domestic Water Company, a corporation organized and existing under and by virtue of the laws of the State of California, acting by and through its duly authorized officers, the party of the second part:

Witnesseth, That for and in consideration of the promises, payments and covenants to be paid, kept and performed by the party of the first part, the party of the second part does hereby agree to sell and convey unto the party of the first part, and the party of the first part agrees to buy all that certain real and personal property in the city of Fullerton, county of Orange, State of California, described as follows, to wit: Lots 13, 14 and 15 in Block 8 of the "Townsite of Fullerton," as appears on a map thereof recorded in Book 2 at pages 3 *et seq.* of the Miscellaneous Records of Los Angeles County, California, together with the buildings, machinery, tanks, appurtenances and fixtures thereto; and also all the pumps, tanks, motors, transformers, belting, electric equipment, air compressors, distributing mains and pipes, service mains, meters, hydrants, tools, fittings, supplies, pipe and all other tools, machinery and personal property, exclusive of bills receivable, belonging to the party of the second part and used by it in its domestic water company, pumping station and distributing system in the city of Fullerton, County of Orange, State of California, together with its right to operate a water system in said city of Fullerton for the sum of twelve thousand five hundred dollars (\$12,500), which the party of the first part promises and agrees to pay to the party of the second part as follows, to wit: The sum of five hundred dollars (\$500) on or before May 1, 1913; the sum of three thousand dollars (\$3,000) on or before January 1, 1914; the sum of five thousand dollars (\$5,000) on or before January 1, 1915, and the balance of four thousand dollars (\$4,000) on or before January 1, 1916. All deferred payments shall bear interest at the rate of six per cent (6%) per annum from May 1, 1913, interest to be computed on each January first during the life of this contract, and to be paid on or before the final payment made on January 1, 1916.

It is further agreed that the party of the first part shall take possession of the said property hereinbefore described, and of the water works, pumping and distributing system of the party of the second part on the first day of May, 1913, and shall operate said system until the municipal water works system of the city of Fullerton is in operation; it being expressly understood, however, that title to said property shall not vest in the party of the first part until the delivery of conveyances of such property by the party of the second part to the party of the first part as hereinafter provided.

It is further agreed that all bills, accounts, debts of the party of the second part, up to the first day of May, 1913, shall be paid and discharged by the party of the second part, and the party of the second part shall hold the party of the first part harmless by reason of the existence of any such obligations; and the party of the second part

further agrees to pay and cause to be released and canceled of record its bonded indebtedness and the deed of trust securing the same, on or before the first day of August, 1913, it being understood that the principal and interest already accrued and hereafter to accrue on said bonded indebtedness shall be fully paid and discharged by the party of the second part.

It is further agreed that from and after the first day of May, 1913, the city of Fullerton does hereby release the party of the second part from all obligations to furnish water to it and its citizens for fire protection, under the provisions of a certain agreement between the parties hereto, and the party of the second part does hereby release the party of the first part from any obligation to pay the rental or charges for said fire protection service from and after the date last aforesaid;

It is further agreed that all unpaid bills for water sold and furnished by the party of the second part to its consumers up to the first day of May, 1913, shall be and remain the property of the party of the second part, and that the party of the second part shall deliver to the party of the first part an itemized and exact statement of the said bills and accounts, and that the party of the first part shall, where possible, collect the same for the party of the second part, and shall render to the party of the second part a monthly account of any payment of said collections made during the prior month, the party of the first part using the same diligence to collect said bills as it may hereafter use in collecting the bills for water sold and supplied by it.

The party of the first part shall have the right and privilege to take up any or all hydrants and pipe lines hereinbefore described, and to remove the motors, pumps, electric equipment, tanks, buildings and pumping machinery from the real property hereinbefore mentioned, and to take up and remove any of the other property agreed to be sold hereunder, and to sell or otherwise dispose of the same at such prices as to it may seem just and reasonable, its officers being the sole judges of the reasonable value and selling price of any or all of said property. It shall also have the privilege of selling any part or all of the real property hereinbefore described, it being understood and agreed, however, that the net receipts received by the party of the first part for the sale of any or all of the property hereinbefore mentioned, after first deducting the cost of putting the same into a condition to be marketed, and any necessary expenses of sale, shall be paid to the party of the second part. The first one thousand dollars (\$1,000) realized from any such sales shall be applied on the payment due January 1, 1914; the balance of the money so realized shall be credited on the last payment due hereunder. When payments are made on account of the said purchase price, interest on the amounts of such payments shall cease.

It is expressly understood and agreed, however, that no part of such

property, either real or personal, shall be sold without giving the party of the second part an opportunity to purchase the same. Whenever it is proposed by the party of the first part to sell any of said property it shall give notice in writing to the party of the second part, delivered at the office of Torrance, Marshall & Co., Los Angeles, Cal., giving the term of such sale, a brief description of the property proposed to be sold and of the purchase price to be received therefor. Within twenty-four hours after the receipt of such notice the said party of the second part shall have the right and option to purchase such property for the sum specified in such notice.

It is further agreed that should the party of the first part so sell or dispose of any of the property hereinbefore mentioned, that the party of the second part, at the time of such sale, will make, execute and deliver to the party of the first part, or to its vendee a good and sufficient bill of sale to any of the personal property hereinbefore mentioned, and a good and sufficient deed to the real property hereinbefore described, and will cause to be executed a good and sufficient certificate of title, showing the title of said real property to be in the party of the second part, free and clear of all incumbrances, excepting the taxes and assessment hereafter mentioned, and saving and excepting anything done or suffered to be done by the party of the first part.

It is further agreed that the party of the first part shall pay all taxes and assessments of every name, kind and nature levied upon said property that may become a lien thereon after the first day of May, 1913, including taxes for the fiscal year 1913-1914 not yet payable, and including the assessment on the said real estate hereinbefore mentioned which was levied by the city of Fullerton under the provisions of the "Local Improvements of 1901" for the construction of the sewer system in the city of Fullerton.

This sale shall be subject to the approval of the Railroad Commission of the State of California, and the party of the first part agrees to assist the party of the second part in presenting the facts of the sale to the Railroad Commission so that it may fully and fairly understand the same.

It is further agreed that after the payments aforesaid shall be made by the party of the first part to the party of the second part, according to the terms and conditions hereof, that the party of the second part will execute and deliver to the party of the first part a good and sufficient conveyance of the property hereinbefore described which has not been theretofore sold, conveying the title of said property to the party of the first part, free and clear of incumbrances, except as hereinbefore provided, but if the party of the first part shall fail to make any of said payments at the time and in the manner herein specified, the party of the second part shall be released from all obligations, either in law or

in equity, to convey said property, and the party of the first part shall forfeit all interest in the said property and to all money paid hereunder.

It is further agreed that should the party of the first part fail to make any of said payments at the time and in the manner herein specified, and to perform all of the conditions of this contract on its part to be performed, and if this contract be forfeited by the party of the second part according to the provisions hereof, that the party of the second part shall then and there have the right and privilege to re-enter the streets, alleys and public places of the city of Fullerton, now used and occupied by its distributing system, and to relay and reconstruct its distributing system where the same has been taken up by the party of the second part, and to operate the system for the distribution of water for domestic purposes in the city of Fullerton, under the same conditions and with the same rights and privileges that it would have had under the provisions of the constitution of the State of California had these presents not been executed, and it may in such an event retake possession of any of the property hereinbefore described, to be sold to the party of the first part hereunder (except such property as may have been sold by the first party as hereinbefore provided), and such property shall thereupon automatically become the property of the party of the second part. The failure of the party of the first part to operate said water system before the same shall have again come into the possession of the party of the second part shall not be considered as a forfeiture of the right and privilege of the party of the second part to resume the operation of said system, and thereafter to furnish said city and its inhabitants with water.

It is further agreed that if the party of the second part shall again acquire said water plant and system as hereinbefore provided, the party of the first part, if permitted by law, shall grant to the party of the second part a franchise to lay and construct, and for a period of fifty years to operate and maintain, a system of water pipes in all of the streets and other public places of said city for the purpose of supplying said city and its inhabitants with water for municipal and domestic purposes. If the party of the first part is not empowered by law to grant such franchise directly to the party of the second part, said party of the first part shall, upon application for such franchise by the party of the second part, advertise for sale such franchise, and shall sell the same to the party of the second part if it is the highest bidder therefor.

It is further agreed that should the party of the first part use any of the property hereinbefore described in its municipal water system that it shall furnish to the party of the second part an itemized account showing the amount of such property used and the exact location in the streets and alleys in which and where said property is used, and

the party of the first part agrees to furnish to the party of the second part a detailed statement showing any property hereinbefore described that it takes up or removes from its present location when the same is so taken up and removed.

In witness whereof, The party of the first part has caused these presents to be executed by the president of its board of trustees, and its city clerk, and its corporate seal to be attached by a motion of its board of trustees duly passed on the seventh day of April, 1913, and the party of the second part has caused these presents to be executed by its president and its secretary, and its corporate seal to be attached by a motion of its board of directors duly passed on the seventh day of April, 1913.

CITY OF FULLERTON,

By E. S. RICHMOND,

President of its Board of Trustees.

By C. A. GILES, its City Clerk.

FULLERTON DOMESTIC WATER COMPANY.

By E. C. STERLING, its President.

By D. H. ARMSTRONG, its Secretary.

DECISION No. 876.

IN THE MATTER OF THE APPLICATION OF DAVIS WATER COMPANY FOR PERMISSION TO ISSUE STOCK AND CERTIFICATES OF INDEBTEDNESS.

Application No. 593.

Decided August 15, 1913.

Held, Applicant permitted to issue capital stock at not less than par; \$6,500.00 par value in payment of that portion of property used in public utility business; \$29,700.00 face value of stock, or \$25,000.00 six per cent refunding coupon certificates, proceeds to be used in additions to plant.

Held, That the \$1,000.00 par value of stock to be paid to A. B. Robert for promotion expenses and other services be denied; \$450.00 par value allowed for this purpose.

O. G. Hopkins, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application of Davis Water Company for an order of this Commission authorizing the issue of capital stock and of certificates of indebtedness, as will hereinafter appear in greater detail.

Applicant was incorporated under the laws of this State on the eighteenth day of April, 1913, for the purpose of engaging in the business of a public utility supplying water for domestic and other purposes, primarily in the unincorporated town of Davis, Yolo County, California. The incorporators intend to purchase the property of the Schmeiser Manufacturing Company at Davis, in so far as that property is at present devoted to the public water business, and to install such improvements and extensions as may be necessary in order to serve the entire town of Davis with water for domestic and other purposes. The Schmeiser Manufacturing Company has been serving some fifty consumers in the town of Davis with water pumped from a well located on the property of the company in Lots 5 and 6, Block 72. That company desired to separate its public utility operations from its other business, and for that reason secured the incorporation of the present applicant.

Applicant's authorized capital stock consists of 2,000 shares of the par value of \$25.00 each, being a total par value of \$50,000.00. There is no bonded or other indebtedness. The company has as yet conducted no operations.

Applicant now applies to this Commission for authority to issue capital stock for certain purposes and to issue either capital stock or refunding coupon certificates for other purposes, as will hereinafter appear.

I shall now consider the purposes for which applicant asks authority to issue capital stock.

1. Applicant asks authority to issue capital stock of the par value of \$6,300.00 to Schmeiser Manufacturing Company in payment for that portion of its property which is devoted to its public utility water business, as will appear in greater detail in this Commission's opinion and order in Application No. 594, to which opinion and order reference is hereby made. I recommend that this portion of the application be granted.

2. Applicant asks authority to issue one share of stock to each of the five persons who are designated as directors in its articles of incorporation. This Commission has heretofore held that it is not necessary to secure its authority for the issue of stock for such purpose, and the order in this proceeding will consequently make no reference to this request. Applicant may issue one share of stock to each of its five directors without securing the further authority of this Commission.

3. Applicant asks authority to issue 500 shares of its capital stock, having a par value of \$12,500.00, as "promotion stock," the same to be used, in the language of the application, "in the promotion and furtherance of the business of the company." It appears that this stock is not to be used in payment for services in organizing the com-

pany, but is to be issued to the incorporators for a purpose not authorized by any of the provisions of section 52 of the Public Utilities Act. I recommend that this portion of the application be denied.

4. Applicant asks authority to issue 40 shares of its capital stock of the total par value of \$1,000.00 to A. B. Robert "in payment for his services in the organization and promotion of said company and also for his further services as assistant secretary and assistant treasurer during the year 1913." It is evident that such services as Mr. Robert may hereafter perform as assistant secretary and assistant treasurer are properly chargeable to operating expense and that they can not be capitalized. Mr. Robert is entitled to be paid for such services as he may perform, but this payment should be made out of the current revenues of the company. With reference to promotion and real organization expenses, it appears that applicant has incurred incorporation filing fees and certain legal expenses, and also that Mr. Robert has devoted a portion of his time since March 1, 1913, in securing necessary estimates as to whether or not applicant would have a reasonable opportunity to succeed and in bringing about applicant's incorporation. It should be borne in mind in this connection that applicant is not undertaking a new public utility business, but that it proposes a change in form of an existing utility in connection with plans for the improvement and development of that utility. This circumstance is material, to be considered in estimating the value of promotion services. I find that the sum of \$200.00 will cover the fees and legal expenses, and believe that \$250.00 will be a liberal payment to Mr. Robert for his services in organizing the company. I accordingly recommend that capital stock of the par value of \$450.00 be authorized for these two purposes.

Applicant also asks authority to issue either capital stock or refunding coupon certificates to make extensive improvements and extensions to the present system. Applicant plans to supply the entire town of Davis with water for domestic and other purposes, and also to furnish fire protection. To this end, applicant intends to erect a new water tower, consisting of two tanks, one of them having a capacity of 60,000 gallons and the other having a capacity of 40,000 gallons. The latter tank is to be at an elevation of one hundred feet, so as to furnish adequate pressure both for domestic and fire protection purposes. Applicant further estimates that it will be necessary to lay 33,000 feet of 4-inch and 6-inch wood stave pipe, which pipe is to be laid along practically all the streets of the town, so that the town may be completely served from applicant's proposed plant. Applicant further expects in time to place the entire system under meters, which meters and the service connections in connection therewith will be installed at applicant's own expense. The water company's revised

estimate of expenditures necessary for these extensions and improvements amounts to about \$29,700.00. While certain of the items, such as the water tower, will be installed at once, others, such as a portion of the pipe lines, may not be installed except from time to time as additions and extensions become necessary. Applicant expects to secure the funds for these extensions and improvements either from the sale of stock at par to residents of Davis or from the sale to them of 6 per cent refunding coupon certificates, which are to be issued in denominations of \$100.00, \$50.00 and \$25.00 each, in a total amount not to exceed \$25,000.00. The interest on these certificates, together with portions of the principal, are to be paid at intervals of six months, and it is planned to repay both principal and interest within ten years. As was pointed out to applicant at the hearing, it can not expect to charge rates so high that the public will be donating the system in addition to having the utility declare dividends. Of course, if the utility refrains from paying dividends and uses the money to which it is reasonably entitled in the way of dividends to pay these obligations, no injury will be done to the public. I assume that it will be necessary for at least a number of years to refrain from paying dividends on the stock, so as to enable applicant to carry its proposed financial burdens.

Applicant desires authority to issue either stock or refunding coupon certificates so that persons contemplating an investment in the utility may invest their money in either form. While I find that it will probably not be necessary in the immediate future to expend the total of \$29,700.00 for extensions and improvements, it is probable that a considerable portion of this amount will be needed within the first year or so. While the order in this proceeding will authorize the issue of either stock or refunding coupon certificates in the total amount of \$29,700.00, applicant should give serious consideration to the question whether the construction of the entire system in the immediate future would not be unwise and financially undesirable. Unless the revenues will be sufficient to enable applicant to meet interest on the full amount of the proposed expenditure, it will be better for applicant to extend the system only as needed and to avoid a large investment not producing commensurate revenue. Applicant must report to the Commission, month by month, with reference to the amount of stock or refunding coupon certificates issued and can devote the proceeds thereof only to the purposes specified in this opinion and order.

Applicant attached to its petition a statement of proposed rates to be charged in connection with its proposed water system. These rates are not a part of the application and can not be considered in this connection. As they involve to some extent increases in rates being paid by existing consumers, it will be necessary to secure the consent

of this Commission before the rates can be made effective. If application to make these rates effective is filed with the Commission, a public hearing will be held at Davis, so that all persons interested may appear and be heard. It is evident that public convenience will be served by the construction of the proposed enlarged water system in the town of Davis. No public utility other than the Schmeiser Manufacturing Company is at present serving water in the town, and persons not served by this company must rely on private wells which, as shown by the evidence, are unsatisfactory and yield a supply of water which apparently is not as good in quality as that which is being pumped from the well of the Schmeiser Manufacturing Company.

I recommend the following form of order:

ORDER.

Davis Water Company having applied to the Railroad Commission for an order authorizing the issue of certain capital stock and refunding coupon certificates, as appears in the opinion which precedes this order, and a public hearing having been held upon said application, and the Commission finding that the purposes for which said capital stock and refunding coupon certificates are hereinafter authorized are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. Davis Water Company is hereby authorized to issue its capital stock, at not less than par, in the amounts and for the purposes as follows:

(a) Davis Water Company may issue its capital stock of the par value of sixty-three hundred (\$6300) dollars in payment for a good and marketable title to that portion of the property of the Schmeiser Manufacturing Company which is devoted to the public utility business, and which is more particularly specified in the order on Application No. 594, to which order reference is hereby made.

(b) Davis Water Company is hereby authorized to issue its capital stock of a par value not to exceed four hundred and fifty (\$450) dollars, in payment for its organization and promotion expenses, of which amount stock not to exceed the par value of two hundred (\$200) dollars may be issued, to pay incorporation and other fees and legal and incidental expenses in connection with incorporation, and stock of the par value of two hundred and fifty (\$250) dollars may be issued to A. B. Robert, in payment for his services in organizing and incorporating the company.

2. Davis Water Company may issue its capital stock, at par, of a face value not to exceed twenty-nine thousand seven hundred (\$29,700)

dollars, or its six (6%) per cent refunding coupon certificates at par, in amounts of one hundred (\$100) dollars, fifty (\$50) dollars and twenty-five (\$25) dollars, the total issue not to exceed twenty-five thousand (\$25,000) dollars, bearing interest at the rate of six (6%) per cent per annum from June 1, 1913, payable on or before June 1, 1923, in form substantially the same as the form attached to the petition herein, or such part either of said capital stock or refunding coupon certificates as may be necessary for the purpose of purchasing and installing a double tank water tower at a cost not to exceed eight thousand (\$8,000) dollars, and of purchasing and installing its proposed distribution system in the town of Davis, including meters and service connections up to the property line and of installing a tool house and purchasing tools, equipment and incidentals at a cost not to exceed twenty-one thousand and seven hundred (\$21,700) dollars.

3. Davis Water Company shall keep separate, true, and accurate accounts showing the disposition made of the stock and refunding coupon certificates hereby authorized, and the receipt and application in detail of the proceeds of the sale of such stock and refunding coupon certificates hereby authorized to be issued as may be sold, and on or before the twenty-fifth day of each month shall make a verified report to the Commission, stating such disposition and sale or sales during the previous month, the terms and conditions of such sale or sales, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. This order, in so far as it affects the refunding coupon certificates, shall become effective only after the payment of the fee prescribed by section 57 of the Public Utilities Act, as amended.

5. This order shall apply only to stock and refunding coupon certificates issued prior to August 1, 1914. If the stock and refunding coupon certificates hereby authorized shall not have been completely issued by said date, application may be made to the Commission for an extension of the time of authorized issue.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

Decision No. 877, grade crossing; not printed. See end of volume.

DECISION No. 878.

IN THE MATTER OF THE APPLICATION OF THE SAN GORGONIO WATER COMPANY AND THE BEAUMONT LAND AND WATER COMPANY FOR A REHEARING.

Case No. 308.

Decided August 15, 1913.

Application of the San Gorgonio Water Company and the Beaumont Land and Water Company for a rehearing granted.

H. L. Carnahan, for San Gorgonio Water Company and Beaumont Land and Water Company.

E. C. White, for protesting water users.

REPORT OF THE COMMISSION.

EDGERTON and LOVELAND, *Commissioners*.

Under date of April 25, 1913, the Railroad Commission of the State of California, after a regular hearing, rendered its opinion and order "in the matter of the rates and service of San Gorgonio Water Company and the Beaumont Land and Water Company."

On May 5th an application for rehearing was filed with this Commission by the San Gorgonio Water Company and the Beaumont Land and Water Company, which application was set down for argument, and argument regularly heard on June 13th.

It is not considered necessary at this time to refer in detail to the reasons advanced as justifying this application for a rehearing. We regard it as sufficient to say that, after due consideration has been given to the application and the reasons for making the same, we are of the opinion that, to avoid all possibility of a miscarriage of justice, it is our duty to grant the application for rehearing to the end that matters and things which were not presented at the former hearing may be placed before the Commission and a conclusion arrived at after all parties in interest have again been given an opportunity to exhaustively present to the Commission the merits of their contention.

We recommend the following order:

ORDER.

Whereas on April 25, 1913, this Commission rendered its opinion and order in Case No. 308, being the case of the Commission's investigation on its own initiative of the rates and practices of the San Gorgonio Water Company and the Beaumont Land and Water Company; and

Whereas on May 5th said San Gorgonio Water Company and said Beaumont Land and Water Company applied for a rehearing of said case; and

Whereas the reasons set forth for and the allegations made in support of the application for rehearing have satisfied this Commission that such application should be granted,

It is hereby ordered that the application for a rehearing of the above entitled case be and it hereby is granted, and that the case upon rehearing be set down for trial at San Bernardino, California, and that all parties interested be notified of the granting of the application for rehearing and of the time at which the case will be heard.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

DECISION No. 879.

STEPHEN A. D. CLARK, E. C. AUCHMOODY, JOHN B. JORDON, JOSEPH L. HALE, R. W. WRIGHT, AND LAVINDA YENDES

vs.

HERMOSA BEACH WATER COMPANY AND QUINTIN J. ROWLEY.

Case No. 287.

Decided August 15, 1913.

Complaint being made to the Commission that the defendant had not complied with the requirements of the Commission's order in this case,

Held, That defendant be declared in contempt of the Commission and fined the sum of \$500.00; said fine to be remitted if defendant complies with all terms of Commission's order within thirty days.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

On February 4, 1913, this Commission made an order in this proceeding in terms as follows:

“The complainants herein having filed their complaint against defendants, Hermosa Beach Water Company and Quintin J. Rowley, and the defendants having answered said complaint and a

hearing having been held, and the Commission being fully informed in the premises, and basing its findings and conclusions upon the findings and matter set out in the opinion herein, the Railroad Commission of the State of California hereby finds as a fact:

That Hermosa Beach Water Company is a public utility, obligated to furnish complainants herein with an adequate supply of water at proper pressure in the gravity line from which complainants are now obtaining water; and

That said Hermosa Beach Water Company did remove water connections connecting the following lots belonging to complainant, Clark, to wit: Lots 12, 13, 14, 15, 16, 17, 20, 21, 22, 24 and 25 in block eight; lots 21, 22, 23 and 24 in block five; lots 10, 11 and 12 in block six, and all of block nine, Carnation Villa Tract, in the county of Los Angeles; and

That said water company has agreed to restore said connections free of cost;

It is hereby ordered that the Hermosa Beach Water Company furnish in the mains from which complainants now obtain their water, an adequate supply of water at pressure at all times of not less than twenty pounds per square inch, said company to begin giving said service within a period of sixty days from the date of this order; and

It is further ordered that said Hermosa Beach Water Company restore the service connections to the lots hereinabove in this order described, and that said connections be restored within a period of thirty days from the date of this order."

It appearing that Hermosa Beach Water Company was failing to comply with the above order, the Commission, on July 23, 1913, made an order directing said Hermosa Beach Water Company to appear before Commissioner Edgerton, on Wednesday, July 30, 1913, at ten o'clock a. m., at the Bullard Block, Los Angeles, California, and show cause, if any said company had, why said company was not complying with the order theretofore made on February 4, 1913. At the hearing upon said order to show cause, said Hermosa Beach Water Company appeared and admitted that it had not fully complied with said order. It appeared that said company had made the water connections required of it by said order, but said company admitted that it had not complied with that portion of said order requiring said company to furnish

"In the mains from which complainants now obtain their water, an adequate supply of water at a pressure at all times of not less than twenty pounds per square inch, said company to begin giving said service within a period of sixty days from the date of this order."

Hermosa Beach Water Company attempted to justify its violation of the Commission's order in the particular above mentioned, upon the ground that in order to comply with said order, said company would have to make certain expenditures to raise a certain reservoir, and to

install a pumping plant. The company admitted, however, that it was the custom of water companies throughout this State to supply water to domestic consumers at a pressure in their mains of not less than twenty pounds per square inch.

I am of the opinion that Hermosa Beach Water Company has presented no good cause for its failure to comply with the Commission's order, and I recommend that said company be declared in contempt of this Commission for its failure to comply with the Commission's said order, and that the Commission impose upon said company a fine of \$500.00. This money, however, would be far more beneficially employed if invested in facilities to enable this company to comply with the Commission's order than it would be if collected as a fine. I recommend, therefore, that it be provided in the order that if said company, within thirty days from the date of this order, fully complies with the Commission's order heretofore made on February 4, 1913, said fine be remitted, but that if at the end of thirty days from the date of this order said company has not fully complied with the provisions of the order heretofore made on February 4, 1913, that this Commission take such steps, through criminal proceedings and otherwise, as it may deem fit to punish said company and its officers for its failure to comply with the Commission's order.

ORDER.

This Commission having, on July 23, 1913, issued an order directing Hermosa Beach Water Company to appear and show cause why said company had not fully complied with the terms of this Commission's order, Decision No. 441, made in this proceeding on February 4, 1913, and why said company is not subject to the penalties provided in the Public Utilities Act, and a hearing having been held upon said order to show cause, and said company having admitted that it had not complied with this Commission's order in the particulars above mentioned, and said company having presented no good reason why it had not fully complied with the Commission's said order, the Commission hereby finds as a fact that Hermosa Beach Water Company has not fully complied with the Commission's order heretofore made in this proceeding on February 4, 1913, in that said company has failed to comply with that portion of said order providing:

"It is hereby ordered that Hermosa Beach Water Company furnish in the mains from which complainants now obtain their water, an adequate supply of water at a pressure at all times of not less than twenty pounds per square inch, said company to begin giving said service within a period of sixty days from the date of this order.

And that said order was made on February 4, 1913, and that no application for a rehearing of said order was filed with the Commission within the time provided by the Public Utilities Act for the filing of applications for rehearing of the orders of the Commission, and that the said order became finally effective."

It is therefore ordered that said Hermosa Beach Water Company be and it hereby is declared in contempt of this Commission, and

It is hereby ordered that said company be and it hereby is fined the sum of \$500.00; provided, however, that if within thirty days from the date of this order said company has fully complied with the terms of the Commission's order, Decision No. 441, heretofore made on February 4, 1913, said fine shall be remitted to said company; provided further, however, that if at the end of said period of thirty days said company has not fully complied with the terms of said order, this Commission will take such steps, through criminal proceedings and otherwise, as it deems necessary to punish said Hermosa Beach Water Company and its officers for its failure to fully comply with said order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

DECISION No. 880.

IN THE MATTER OF THE APPLICATION OF SCHMEISER
MANUFACTURING COMPANY FOR PERMISSION TO SELL
ITS WATER PLANT TO DAVIS WATER COMPANY.

Application No. 594.

Decided August 15, 1913.

Held, Applicant permitted to sell its water plant located in the town of Davis, with the exception of a storage tank, to the Davis Water Company for \$6,300.00, par value, of the capital stock of said water company.

Held, Applicant permitted to lease for a term of three years, at a yearly rental of \$50.00, its water storage tank to the Davis Water Company.

O. G. Hopkins, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to sell a water plant located in the town of Davis, and to lease property heretofore devoted to the business of a public utility water corporation.

Schmeiser Manufacturing Company is engaged in the business of supplying water as a public utility principally for domestic purposes to some fifty-four or fifty-five consumers in the unincorporated town of Davis, Yolo County, California. The owners of the company desire to separate the utility business from their other business, and for that reason have caused the incorporation of the Davis Water Company, to which company the Schmeiser Manufacturing Company now asks authority to sell that portion of its property which has hitherto been devoted to the public utility water business, with the exception of one tank, to which particular reference will hereinafter be made. The property which Schmeiser Manufacturing Company desires to sell consists of Lots 5 and 6, Block 72, in the town of Davis, including the well located thereon, and the water distributing system and appurtenances connected therewith except a private storage water tank of 10,000 gallons capacity, located within the factory inclosure of the Schmeiser Manufacturing Company. Applicant presents an estimate of the value of this property as \$6,300.00, and proposes to sell the property to the Davis Water Company for its capital stock of the par value of \$6,300.00. While not passing on the value of this property for rate fixing purposes, I am convinced, particularly in view of the fact that the Davis Water Company is to make important extensions and improvements in the town of Davis, that the price to be paid in its capital stock is not unreasonable. I recommend that this portion of the application be granted.

The private water storage tank hereinbefore referred to is considered by the Schmeiser Manufacturing Company to be necessary in the conduct of its business. The company, nevertheless, is willing to lease the tank to the Davis Water Company until the latter company can construct its own tanks. The manufacturing company accordingly asks authority to lease this tank for a period of three years, at a rental of \$50.00 per year, which rental appears to be reasonable. While it is not entirely clear that this Commission's authority is necessary with reference to this proposed lease, I nevertheless recommend that the authority be given for what it may be worth.

For further information with reference to the plans of the Davis Water Company, reference is hereby made to this Commission's opinion and order in Application No. 593.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Schmeiser Manufacturing Company having applied to this Commission for authority to sell to the Davis Water Company its water plant in the town of Davis, with the exception of the storage tank, which applicant asks authority to lease to Davis Water Company, and

a public hearing having been held on said application, and it appearing that public convenience and necessity will be served by the grant thereof,

It is hereby ordered as follows:

1. Schmeiser Manufacturing Company is hereby authorized to sell to Davis Water Company, in exchange for capital stock of the latter company of the par value of sixty-three hundred (\$6300) dollars, the Schmeiser Manufacturing Company's water plant in the town of Davis, California, including its system of pipe lines, well, pump, pump house, equipment, appliances and appurtenances, except the private storage water tank of ten thousand (10,000) gallons capacity, located within the factory inclosure of the vendor, together with its franchises or permit secured from the board of supervisors of Yolo County, by resolution dated April 15, 1913, a copy whereof is attached to the application, together with a good and marketable title to Lots 5 and 6, Block 72, in said town of Davis.

2. Schmeiser Manufacturing Company is hereby authorized to lease to Davis Water Company the water storage tank of lessor, having a capacity of ten thousand (10,000) gallons, located on the western half of Block 73 in the town of Davis, California, for the term of three (3) years, at a rental not to exceed the sum of fifty (\$50.00) dollars per year, said lease to be in form substantially the same as the form which is attached to the petition in this proceeding.

3. Schmeiser Manufacturing Company shall file with this Commission certified copies of the deed and the leases necessary to convey and lease its property to Davis Water Company, as specified in sections 1 and 2 of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

DECISION No. 881.

E. PERCIVAL LEWIS

vs.

PEOPLES WATER COMPANY.

Case No. 399.

Decided August 15, 1913.

Held. Commission has no jurisdiction on the complaint of individual resident of Berkeley to order the Peoples Water Company to increase size of its mains solely for purpose of furnishing water for fire protection purposes.

B. D. M. Green, for Complainant.

Arthur Tasheira and *McKee & Tasheira*, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This case presents the question of the extent of a water company's liability to furnish facilities and water sufficient for fire protection purposes.

The complaint alleges, in effect, that the complainant resides on Panoramic Way in the city of Berkeley; that the defendant is engaged in supplying water to portions of Alameda County, including the city of Berkeley and its inhabitants; that in the portion of Berkeley in which complainant resides many residences are located in close proximity to each other; that in the portions of Berkeley lying east of College avenue, north of Dwight Way and south of the grounds of the University of California, with certain exceptions, water pipes of two inches and no larger are maintained by defendant in the public streets; that at a recent fire which took place on Panoramic Way within 200 feet of respondent's residence it was necessary for the Berkeley Fire Department to carry its line of hose a distance of approximately 2,000 feet from a six-inch pipe in Dwight Way, and to pump the water at an elevation of at least 150 feet; that if there had been a six-inch pipe in Prospect street the fire could have been prevented from spreading and the property loss would have been materially less; that all of the houses located in this district would have ample fire protection if a six-inch water main were laid and maintained in said Prospect street from the northern line of Dwight Way to the northerly terminus of said street; that it is impossible to give this neighborhood adequate fire protection from a two-inch pipe; that the fire which originated near complainant's home consumed two residences and that the spread of the fire from the first residence to the second residence could easily have been prevented if a sufficient stream of water had been obtainable without the delay incident to laying 2,000 feet of hose; and that if a six-inch main had lain in Prospect street at the time of the fire sufficient water would have been immediately available to have saved the second residence. Complainant accordingly asks this Commission to order the defendant to install and maintain in lieu of the present two-inch pipe a six-inch pipe in Prospect street from the northern line of Dwight Way to the northern extremity of Prospect street.

The defendant thereafter filed with this Commission a memorandum of alleged defects in the complaint, reading as follows:

"The matters complained of in said complaint and the relief prayed for therein are matters not within the jurisdiction of this Commission, to be heard or passed upon by this Commission, and

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said complaint does not establish a *prima facie* or any case to be heard by this Commission, and it is not within the power or authority of this Commission to grant the relief prayed for."

The defendant accordingly asked that the complaint be dismissed.

A public hearing was thereafter held on the question of the Commission's jurisdiction and arguments were presented by both sides.

The matter is one of considerable importance, and has received the serious consideration of this Commission. I shall now refer to such statutory and constitutional provisions and such decisions of the Supreme Court of this State as have bearing on this matter.

The act of May 3, 1852, Statutes 1852, page 177, provided in effect that the general incorporation act of April 22, 1850, should apply to associations formed "for the purpose of supplying any cities or towns in this State, or the inhabitants thereof, with pure fresh water." Section 4 of the act provides in part as follows:

"All corporations formed under the provisions of this act, or claiming any of the privileges of the same, shall furnish pure fresh water to the inhabitants of such city and county, or city or town, for family uses, so long as the supply permits, at reasonable rates and without distinction of persons, upon proper demand therefor, and shall furnish water, to the extent of their means, to such city and county, or city or town, in case of fire or other great necessity, free of charge."

This section made it the duty of water companies to furnish pure fresh water to "the inhabitants" of cities and towns "for family uses," and also the duty to furnish water "to the extent of their means, to such city and county, or city or town, in case of fire or other great necessity, free of charge."

When the codes were enacted in 1872, the following provision, taken almost literally from section 4 of the act of 1858, was inserted as section 549 of the Civil Code:

"All corporations formed to supply water to cities or towns must furnish pure fresh water to the inhabitants thereof, for family uses, so long as the supply permits, at reasonable rates and without distinction of persons, upon proper demand therefor; and must furnish water to the extent of their means, in case of fire or other great necessity, free of charge. The board of supervisors, or the proper city or town authorities, may prescribe proper rules relating to the delivery of water, not inconsistent with the laws of the State."

The question as to the meaning of the words "in case of fire or other great necessity" came before the Supreme Court of this State in the case of *Spring Valley Water Works vs. City and County of San Francisco*, 52 Cal. 111, decided in April, 1877. At page 120 the court distinguishes between the duty of water companies to furnish water "for family uses" to the "inhabitants" of a city or town, and the duty to

furnish water to the extent of their means to such "city and county or city or town" in case of "fire or other great necessity, free of charge." After commenting upon this antithesis, the court construes the words "fire or other great necessity" to include all uses which are incidental to the direct employment by the municipality of its governmental or police powers as distinguished from the family uses of the inhabitants, and holds that it is the duty of a water company to furnish free to a city water for use for the flushing of sewers, the sprinkling of streets, the watering of parks and the extinguishment of fires. The court also holds that water must be supplied free for the ordinary uses of the fire engines and engine houses.

The same conclusion is reached in the case of *San Diego Water Company vs. City of San Diego*, 59 Cal. 517, where the Supreme Court of this State holds that it is the duty of a water company to furnish to a municipality water for extinguishing fires and flushing the sewers of the city free of charge, and that consequently the board of trustees of the city of San Diego had no power to contract to pay a water company for these services.

Thereafter, in the case of *Spring Valley Water Works vs. San Francisco*, 61 Cal. 3, it was held that section 1 of article XIV of the constitution of 1879, providing for the fixing by public authorities of the rates of compensation to be collected by water companies, had repealed section 4 of the act of 1858, in so far as this section made it the duty of a water company to supply water to municipalities for municipal uses free of charge. Since the decision in that case, municipalities, just like individuals, have paid for the water which has been delivered to them by water companies. There is nothing in the case in 61 Cal., however, which in any way relieves from or adds to the duties of water companies, other than in the matter of payment for water delivered to municipalities for municipal uses. Prior to the Public Utilities Act, which I shall hereinafter consider, no statute enlarged the duty of a water company to supply water to the inhabitants of municipalities for uses other than "family uses" and no statute relieved the water companies from the duty of furnishing water to municipalities for municipal purposes "to the extent of their means, in case of fire or other great necessity," which words include all ordinary municipal purposes. It will be noted that while the statutes have imposed upon water companies the duty to furnish water, to the extent of their means, to municipalities for fire protection purposes, they have not imposed such a duty with reference to individuals. I shall now refer to and analyze three recent cases decided by the Supreme Court of this State bearing on the present proceeding.

In *Town of Ukiah vs. Ukiah Water and Improvement Company*, 142 Cal. 173, decided in February, 1904, the town of Ukiah brought an

action to recover against the defendant water company for the destruction of plaintiff's municipal property by fire. Defendant's liability was predicated both upon its alleged negligence and upon its alleged breach of contract with the plaintiff to supply water in its supply pipes and fire hydrants under sufficient pressure for effective use. After verdict for the plaintiff the defendant moved for a new trial, which motion was granted. On appeal by the plaintiff the Supreme Court affirmed the order granting the new trial. It appeared that hydrants for fire purposes were connected with the defendant's mains and pipes at various places in the streets of the town, and that these hydrants were maintained and used by the town almost solely for the extinguishment of fires. In each of the ordinances passed from year to year by the town trustees, fixing the rates to be charged for water furnished the town and its inhabitants, a provision was made for fire hydrants under the head of water furnished to the town for municipal purposes. as follows:

"For fire hydrants each per month, one dollar."

In the opinion of Judge Angellotti, who presided in the trial of the case in the Superior Court, which opinion the Supreme Court adopts, he says at page 175:

"In ruling upon the demurrer to the complaint, I stated that I had not been referred to, nor did I know of any statute or rule of law that would, independent of contract, make the defendant liable on the facts stated in the complaint; in other words, that the mere fact that a corporation was engaged in the business of furnishing water appropriated for sale, rental, and distribution would not place upon it the obligation of having constantly on hand a sufficient quantity of water available for use by the town for the extinguishment of fires, for the failure to observe which it would be liable to the municipality for the value of municipal property destroyed by reason of such failure. Further thought has satisfied me that there can be no question as to the correctness of these views; that something additional is essential to the creation of such a liability; and that if there be any such liability here, it must arise from contract."

It will be observed that Judge Angellotti holds that the mere fact that a corporation has engaged in the business of furnishing water to the public does not place upon it the obligation of having on hand a sufficient quantity of water available for use by the town for the extinguishment of fires. In order to recover against the water company a distinct obligation must be shown, such as appears in case the company has contracted that it will deliver water sufficient for fire protection purposes.

While unable to find a written contract between the town of Ukiah and the water company, Judge Angellotti finds an implied contract for the furnishing of water for general municipal fire purposes to have

arisen out of the ordinance and the supply of water thereunder by the water company at the rates therein established. Continuing, he says at page 179:

“If the defendant be liable here, the only property in the town specifically protected by such a contract for water for general fire purposes, and the only property for loss, of which a recovery could be had in an action for damages based on a breach of such contract, is the property of the municipality itself. * * * But it certainly needs something more than evidence showing an accepted service for ‘general fire purposes’ to establish such a contract, and the evidence here shows nothing more.”

Judge Angellotti, at page 180, concludes that the contract was not for the protection of any particular property or person but was for the general benefit of all the property and persons within the municipal limits, and that the defendant assumed no obligation regarding the property of the town different from that assumed by it regarding all other property within the town, and that the city as a property owner is without right of action. While it is assumed that the city may enter into a contract for the supply of water for fire purposes to protect particular designated property of the city, no such contract was found in this case.

The Supreme Court, in affirming the order below, after referring to certain cases from Kentucky, North Carolina and Louisiana, in which a recovery lay against a water company for failure to furnish adequate fire protection, distinguishes between those cases and the Ukiah case as follows:

“The broad distinction between those cases and the one at bar is, as pointed out in the opinion of the trial judge, that there is no express covenant in the contract between this plaintiff and this defendant, and the security to plaintiff’s property was only the same security which in the exercise of its governmental functions the plaintiff had obtained for the whole town.”

While Judge Angellotti stated (page 176) that

“Doubtless, too, a water company is required, upon proper demand by the municipality, to furnish water to the municipality for the extinguishment of fires that may arise therein, at the established rates, and when, in pursuance of such requirement, it undertakes the service, a contractual relation is established, and the company is bound to continue the service it has undertaken,”

there is nothing in this language to justify the conclusion that the city, by merely passing an ordinance establishing rates to be charged for fire hydrants, can compel a water company to increase the size of its mains in any part of the town for the purpose of installing fire hydrants of such size as may be demanded by the city. While the water company is undoubtedly under the duty, under the the provi-

sions of section 549 of the Civil Code, to furnish water to the extent of its means in case of fire, and while the city can probably provide for the installation of fire hydrants in the system as it finds it, there is considerable doubt as to whether, in the absence of a contract containing adequate consideration, the city can compel a water company to replace two-inch mains by six-inch mains under an alleged duty to furnish water for a purpose for which the water company has never held itself out.

In *Hunt Brothers Company vs. San Lorenzo Water Company*, 150 Cal. 51, an action was brought to recover \$124,496.98 damages resulting from the destruction of the plaintiff's cannery in Hayward, Alameda County, and loss of profits, all occasioned by fire, and alleged by plaintiff to have been caused by the failure of defendant water company to supply sufficient water to plaintiff's premises. Plaintiff and defendant had entered into an agreement whereby defendant agreed to lay a six-inch main from one of its water mains to plaintiff's premises, to install a fire hydrant in said premises, and to supply plaintiff by means thereof with water for the purpose of extinguishing any fire which might occur on the premises, in consideration of the payment of \$2.75 per month. No time was specified for the commencement of the work. Before its completion the fire occurred. The court held that as there had been no agreement for fire protection to commence at or within a period of time, and no payments made on the agreement, the plaintiff could not claim to rely on the protection until the actual commencement of the service. The judgment for the defendant was accordingly affirmed. The court assumes that defendant would not be liable for failure to furnish sufficient water for fire protection unless it had contracted so to do and had installed the service.

In *Nichaus Brothers Company vs. Contra Costa Water Company*, 159 Cal. 305, an action was brought to recover damages against the defendant water company for an alleged breach of contract to supply water to the plaintiff's premises for fire protection. Plaintiff alleged that its planing mill in West Berkeley had been destroyed by the failure to furnish sufficient water for fire protection and recovered a judgment for \$128,645.42 in the court below. The Supreme Court reversed the judgment, on the ground that there was no contract between the parties for the supply of water for fire protection purposes sufficient to justify a recovery.

The court first finds that there was no express contract between the parties. Plaintiff then contended that an implied contract arose from the fact that plaintiff had installed fire hydrants and that under an ordinance of the city of Berkeley 50 cents per month was payable from plaintiff to defendant for each of said hydrants. The plaintiff claimed that the ordinary relation of public distributor of water and consumer

was sufficient, under the ordinance, to impose upon the defendant the obligation to supply it with water for fire protection. Referring to this point, the court says at page 316:

"No liability such as the plaintiff claims was ever contemplated where the only relation shown is such as proceeds from the fact that the water company has undertaken to furnish the inhabitants of a municipality with water, has connected its mains with the premises of a consumer, and is charging ordinance rates for the water supplied or to be supplied."

Again, at page 317:

"It would appear that in the nature of the situation itself no obligation, implied or otherwise, to have constantly on hand a supply of water for fire protection could arise."

The court then continues as follows:

"While it is to be presumed that the rates established by a municipal ordinance are fair and reasonable, this presumption only applies as far as such rates fix the compensation to be paid the company for furnishing water to consumers as a commodity. *They are not fixed as a consideration under which the company obligates itself to furnish water for the extinguishment of fires with a corresponding liability for failure to do so. And it is from the fact that under the ordinary relation of public service corporation and consumer that the only duty of the company is to furnish water as a commodity and not for the purpose of extinguishing fires that liability for damages for failure to supply it for the latter purpose can only be created by express contract.*"

The court then, at page 317, refers to the well established rule that a property owner has no right of action against a water company under its contract with a city to supply water to public hydrants for the protection of his property, although his loss may have been occasioned by the negligent failure of the company to have on hand a supply whereby the loss might have been prevented. The attorney for the complainant in this proceeding admits the correctness of this rule. At the same time, while admitting that a water company is not liable in the absence of express contract for loss due to its failure to have on hand a sufficient supply of water under adequate pressure to extinguish fires, he contends that the public authorities have a right to compel a water company to enlarge its mains and increase its water supply for the specific purpose of having on hand adequate facilities and sufficient water to put out fires. In other words, he contends that the water company may be compelled to have on hand enough water at adequate pressure for fire protection purposes, but that it is under no liability to an owner of property who has his property destroyed by reason of the failure of the water company to comply with this duty. This distinction I can not understand. The idea of a duty without a liability in case property rights are injured or destroyed by a failure to per-

form the duty is foreign to my ideas of the law. If a duty exists in this case, a liability ought to exist for failure to perform the duty. On the other hand, if no liability exists, this fact is very persuasive of the conclusion that there is no duty.

Continuing, the court says at page 318:

"Applying the reasoning of these authorities to the relation between the company and the consumer here, it is apparent that from that relation no obligation to furnish water for fire protection is implied, nor can it be said to exist in the absence of an express contract."

Referring to the question of the increased rates which would have to be paid if water companies assume to protect against fire, the court says at page 319:

"In the nature of things the compensation fixed by the municipality has no relation to the assumption of any such liability; that compensation is based on the expense of furnishing water simply as a commodity; liability for destruction of premises to which the company may be required to supply water was not taken into consideration in fixing the rates, nor, we apprehend, was it even thought that any such liability could be imposed by the ordinance, or was to be assumed by the company in doing so."

Again, on the same page:

"It would not seriously be contended where property owners have installed hydrants, stand pipes or such other facilities, upon their property as might be available to them to extinguish fire, that a water company furnishing water to the premises from connections made therewith, and at ordinary ordinance rates for water, would be liable for a loss by fire occasioned either through a deficiency or total failure of water at the time it occurred. Such a liability could not be forced upon the company by the action alone of the consumer installing these facilities."

Referring to the contention that a contract arose from the fact that the water company charged the monthly ordinance rates for the hydrants installed upon plaintiff's premises, the court says at page 320:

"But these were not paid by reason of any contract between it (plaintiff) and the defendant. If a voluntary contract had been made between them under which a stipulated monthly sum was charged plaintiff by defendant for connecting its mains with the hydrants of the plaintiff, it might reasonably and plausibly be argued that fire protection was contemplated as the only advantage to be derived therefrom. Here, however, there was no such contract. While the municipality has the constitutional power to fix the rates at which a water company may supply water to its inhabitants, this applies only to the establishment of rates for the supply of water as a commodity, and while it may contract with the company for general protection against fire of the property of its inhabitants and expressly contract for protection of its own municipal property, it has no authority to arbitrarily impose upon

a water company liability for the destruction of the property of the individual citizen on account of an inadequate water supply by simply fixing an ordinance rate for hydrants which the citizen may install upon his premises."

The court then refers to the enormous liability which a water company would be compelled to assume upon the plaintiff's theory without any adequate consideration and concludes at page 322 that the only relation shown to exist between the plaintiff and defendant was that of a water company engaged in distributing water for public use to a consumer who had availed himself of his legal right to have the company connect its water system with his premises for the purpose of furnishing him with water solely at ordinance rates fixed by the town of Berkeley, and that under these circumstances,

"no liability is imposed by any statute of this State upon such public service company for failure, from whatever cause, to have a supply of water available on the premises of the consumer for use in fire protection, although he may have installed ample facilities for that purpose, and no legal liability for such failure, independent of the statute, is implied from the relation; that such liability can only be created by contract between the parties under which the water company expressly assumes the liability."

As no contract was proven, the plaintiff was held to have no right to maintain the action.

The *Niehaus* case is the last expression of the courts of this State bearing on the question here under consideration. It appears clearly from that case that the ordinances of the city of Berkeley establishing water rates are not sufficient to create an express contract under which the defendant is liable for loss by fire and that in the absence of such an express contract no liability exists. In the absence of such liability it would seem equally clear that there can be no duty on the part of the water company to increase the main on Prospect street from two inches to six inches in diameter, and to supply water through it at a sufficient pressure for fire protection purposes. In the absence of a liability it seems difficult to find a duty. This conclusion is strengthened by the fact that if the Peoples Water Company can be compelled to increase its two-inch mains to six-inch mains for fire protection purposes, and to deliver water at an adequate pressure through them, for all individuals who apply, the water company will have to rebuild a large portion of its system in the city of Berkeley, and will have to incur large additional expenses for the supply of water, with the result that the rates to be paid by the consumers of water in Berkeley will be increased very materially because of the additional investment. Under the decision in the *Niehaus* case it seems clear to

me that prior to the enactment of the Public Utilities Act there was no duty on the part of the defendant to increase the size of the pipe in Prospect street, Berkeley, for fire protection purposes. I am not here passing on the duty of the water company to install such fire hydrants in its existing plant as may from time to time be required by the city of Berkeley and to permit the use of such hydrants for the purpose of flushing the sewers, sprinkling the streets and furnishing water for general fire protection purposes.

Complainant relies chiefly on the claim that under the Public Utilities Act it has been made the duty of water companies to supply sufficient water for fire protection purposes to individuals and that this Commission has the power to enforce the duty. Both parties agree that if this power vests in any public authority it vests in the Railroad Commission. It becomes unnecessary to determine this point in this proceeding. Complainant apparently relies on section 13 (b) and section 42 of the Public Utilities Act, reading as follows:

"Sec. 13. (b) Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable."

"Sec. 42. The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every public utility to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signalling, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand."

I can not find in these sections any intention to impose upon a water company any duty with reference to fire protection which did not exist before the enactment of the Public Utilities Act. In my opinion, the effect of these sections is not to add to the duty of a water company with reference to fire protection, but rather to declare that a water company shall perform its full duty to the public in all respects in which it is under obligation to the public and to provide that the Railroad Commission may enforce the performance of these duties. If it had been intended to impose upon a water company additional duties demanding the very large expenditures of money which would be

required to rebuild their systems in such a way as to insure adequate fire protection, the legislature would certainly have expressed that intention in specific language clearly indicating its desire. In the absence of such language, I am of the opinion that the Public Utilities Act has not added to the existing duties of water companies with reference to fire protection. I am confirmed in this view by the opinion of the Supreme Court of Wisconsin in the case of *Krom vs. Antigo Gas Company et al.*, 140 N. W. 41, decided on February 18, 1913, in which case a similar conclusion was reached with reference to similar provisions of the Public Utilities Act of Wisconsin. It was argued in that case that the provisions of the Public Utilities Act to the effect that each water company should furnish reasonably adequate service and facilities and imposing penalties in case of failure so to do made the defendant water company liable for failure to furnish adequate facilities to put out a fire which occurred in Antigo. The court held that there was no duty cast upon the water companies to furnish water for extinguishing fires to any person other than a municipality and that the statute did not impose any new liability.

For a reference to a large number of cases from other states reaching the same conclusions which have been reached by our Supreme Court in the *Town of Ukiah* and *Niehaus* cases, I desire to refer to *Wyman Public Service Corporations*, section 350, and *Farnham Waters and Water Rights*, section 160-B, and cases there cited.

If the conclusions herein stated are correct, we are confronted with the practical question as to how an individual is to secure adequate fire protection for a house located in outlying sections of a territory supplied by a water company, in which the size of the mains and the pressure are not sufficient to furnish adequate fire protection. In some of the cases the courts have suggested that a loss by fire may be guarded against by insurance, and that the collection of the insurance, if a fire results, is an adequate remedy. While such remedy may seem adequate in law, it will afford little comfort to a person who is compelled to stand helplessly by and see his property destroyed.

The desired fire protection may, of course, be secured by contracts with water companies on the part of municipalities and individuals, in case the water companies are willing to enter into such agreements. Such conditions as may be deemed necessary may doubtlessly be inserted in charters and franchises and become operative as to water utilities hereafter entering the field, but this procedure could not be availed of as to companies now operating under existing charters and existing franchises not containing the desired conditions.

San Francisco and Oakland, and possibly other cities in this State, have, at public expense, installed auxiliary fire protection systems.

It may be that other cities in California will find such a course to be the solution of the difficulty with reference to fire protection in cases in which the existing water plants do not in connection with their domestic service supply facilities and water sufficient for fire protection purposes. When a city installs a fire protection system it acts under the same theory under which it acts when it installs adequate police protection. In either event, it acts in pursuance of the public safety and general welfare.

Ownership and operation of the existing water plants by the municipalities will not in and of itself provide the desired remedy, for the reason that it has been universally held that a municipality owning and operating its own water system is not liable in damages for destruction of property caused by the failure of the municipality to supply adequate facilities and water for fire protection purposes. See *Town of Ukiah vs. Ukiah Water and Improvement Company, supra*, at page 178, where a large number of authorities are cited.

While in reaching a conclusion in this case it has been necessary to examine the authorities at some length, it should be distinctly understood that the only point decided is that this Commission has no authority to compel the Peoples Water Company to increase the size of its pipes on Prospect avenue, Berkeley, from two to six inches under the circumstances revealed in the pleadings, for the sole purpose of furnishing additional fire protection to the plaintiff.

I am of the opinion that this Commission has no jurisdiction to entertain this complaint, and recommend the following form of order:

ORDER.

A public hearing and argument having been held on the question whether or not this Commission has jurisdiction to entertain the above entitled proceeding, and the Commission finding that it has no jurisdiction,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

DECISION No. 882.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE AND WILL REQUIRE THE EXERCISE BY IT OF RIGHTS AND PRIVILEGES UNDER FRANCHISES GRANTED TO IT BY THE CITY OF STOCKTON BY ORDINANCE NO. 566, APPROVED DECEMBER 30, 1912, AND BY THE COUNTY OF SAN JOAQUIN BY ORDINANCE NO. 399, PASSED JANUARY 7, 1913.

Application No. 347.

Decided August 15, 1913.

Held, That the Western States Gas and Electric Company has complied with all requirements of the Commission as to the establishment of reasonable rates and improved service in the city of Stockton.

Held. That the application of the Oro Electric Corporation to enter the city of Stockton and adjacent territory, to which territory permission was refused in the decision in Application No. 64, be denied.

Held, Western States Gas and Electric Company authorized to make proposed rates effective on one day's notice.

Allen Chickering, Chickering & Gregory and Nutt & Orr, for Western States Gas and Electric Company.

W. H. Orrick, Goodfellow, Eells & Orrick, and *C. L. Neumiller*, for Oro Electric Corporation.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

SUPPLEMENTAL OPINION.

The hearing in this matter was held for the purpose of ascertaining whether or not the Western States Gas and Electric Company has complied with the requirements specified in this Commission's order in the above entitled proceeding, rendered on April 29, 1913.

Application No. 347 was an application of the Oro Electric Corporation for a certificate of public convenience and necessity that public convenience and necessity require and will require the exercise by Oro Electric Corporation of rights and privileges under two franchises—one granted to it by the city of Stockton and the other by the county of San Joaquin. In its said order dated April 29, 1913, this Commission granted the application in so far as it affects territory

in San Joaquin County south of the right of way of the Atchison, Topeka and Santa Fe Railway Company, and within a constant distance of two miles from the city of Stockton, except the city of Stockton, and also as to all of San Joaquin County lying north of said right of way, with certain exceptions, among which are the city of Stockton and territory lying north and east thereof, within one mile from the city limits, north of said right of way of the Atchison, Topeka and Santa Fe Railway Company.

With reference to the city of Stockton, and said territory lying north and east thereof, north of the right of way of the Atchison, Topeka and Santa Fe Railway Company, the application was held open for a period of ninety days from the date of the order, pending a determination by this Commission as to whether or not the Western States Gas and Electric Company should have complied within that time with certain requirements specified in the order. This Commission's order of April 29, 1913, reads in part as follows:

"It is hereby ordered that the Western States Gas and Electric Company be given ninety (90) days from the date of this order within which to complete its work of reconstruction and unification in and around the city of Stockton. If at the end of this period, the Western States Gas and Electric Company shall have satisfied this Commission that its said work of reconstruction and unification has been completed, and that its service has become satisfactory, and if said company shall within said time present to this Commission such rates as it may consider just and reasonable, not to exceed in general the rates presented by the Oro Electric Corporation, this Commission will make its supplemental order denying the application with reference to said territory. If the Western States Gas and Electric Company fails to meet these requirements to the satisfaction of this Commission, the Commission will thereupon, without further proceedings, issue its order granting this application as to the remaining territory."

The order then continues as follows with reference to certain stipulations required to be filed by the Western States Gas and Electric Company:

"Within thirty (30) days from the date of this order the Western States Company shall file in this proceeding a stipulation with the Commission and the board of trustees of the city of Stockton to the effect that it entered into the contract with the Sierra and San Francisco Power Company for the purpose of protecting itself from competition, and that the amount which it is obligated to pay to the Sierra and San Francisco Power Company under this contract is excessive and likewise that the amount which it is obligated to pay to the Pacific Gas and Electric Company under the 9-cent rate contract referred to in the opinion herein is excessive, and that it will not in any rate fixing inquiry, either before the authorities of the city of Stockton or before this Commission, directly or indirectly use the expenditures required

under these two contracts as an element to be considered in making rates, beyond the amount which the amount of electricity secured under these contracts is reasonably worth."

The three matters to be determined accordingly concern: (1) rates, (2) unification and reconstruction, including service, and (3) stipulation.

The Western States Gas and Electric Company, hereinafter referred to as the Western States Company, heretofore filed with this Commission and also with the board of trustees of the city of Stockton, a stipulation, in accordance with the order, which stipulation was heretofore on the second day of June, 1913, approved by this Commission. The matters remaining to be determined are, accordingly, (1) rates, and (2) unification and reconstruction, including service.

The Oro Electric Corporation, hereinafter referred to as the Oro Corporation, appeared at the hearing and stated that it considered the matter to be one between the Commission and the Western States Company alone. The Oro Corporation accordingly offered no evidence of its own, but cross-examined witnesses presented by the Western States Company, and made suggestions to the Commission as to the evidence necessary to determine whether or not the Western States Company had complied with the Commission's requirements.

Referring first to the question of rates, the Western States Company, on July 24, 1913, filed with this Commission a letter, a copy whereof was introduced at the hearing and marked "Western States Company's Exhibit No. 2," in which letter the company, among other things, set out a schedule of proposed residence lighting rates, commercial lighting rates, and both alternating and direct current power rates for the city of Stockton and vicinity, which rates the Western States Company offers to put into effect in the city of Stockton and vicinity, if satisfactory to this Commission. These rates are as follows:

PROPOSED RESIDENCE LIGHTING RATES FOR CITY OF STOCKTON AND VICINITY.

| | | |
|-------|--|-----------------------------|
| First | 100 kilowatt hours used per month..... | 6.5 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 6.0 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 5.5 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 4.5 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 3.5 cents per kilowatt hour |
| Next | 200 kilowatt hours used per month..... | 3.4 cents per kilowatt hour |

If the monthly consumption exceeds 500 kilowatt hours

then the total monthly consumption will be billed at 4.6 cents per kilowatt hour

Discount 10 per cent if paid within ten days of date of bill. Minimum monthly bill \$1.00 per meter.

PROPOSED COMMERCIAL LIGHTING RATES FOR CITY OF STOCKTON AND VICINITY.

| | | |
|-------|--|-----------------------------|
| First | 100 kilowatt hours used per month..... | 6.0 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 5.5 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 5.0 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 4.5 cents per kilowatt hour |
| Next | 50 kilowatt hours used per month..... | 4.0 cents per kilowatt hour |

| | |
|--|-----------------------------|
| Next 100 kilowatt hours used per month..... | 3.9 cents per kilowatt hour |
| Next 100 kilowatt hours used per month..... | 3.8 cents per kilowatt hour |
| Next 200 kilowatt hours used per month..... | 3.7 cents per kilowatt hour |
| Next 300 kilowatt hours used per month..... | 3.6 cents per kilowatt hour |
| Next 500 kilowatt hours used per month..... | 3.4 cents per kilowatt hour |
| Next 500 kilowatt hours used per month..... | 3.0 cents per kilowatt hour |
| Next 1000 kilowatt hours used per month..... | 2.6 cents per kilowatt hour |
| All over 3000 kilowatt hours used per month..... | 2.5 cents per kilowatt hour |

Discount 10 per cent if paid within ten days of date of bill. Minimum monthly bill \$1.00 per meter.

PROPOSED ALTERNATING CURRENT POWER RATES FOR CITY OF STOCKTON AND VICINITY.

For 1 to 5 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 4½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 4 cents |
| All over | 3½ cents |

For 5 to 7½ horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 4 cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 3 cents |
| All over | 2½ cents |

For 7½ to 10 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 3½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 3 cents |
| All over | 2½ cents |

For 10 to 20 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 3 cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| All over | 2½ cents |

For 20 to 30 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| All over | 2 cents |

For 30 to 40 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| All over | 1½ cents |

For 40 to 50 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 2 cents |
| All over | 1½ cents |

For 50 to 100 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 2 cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 1½ cents |
| All over | 1½ cents |

No discounts allowed. Minimum bill \$1.00 per installed horsepower per month. When installation is on the changing line, such as a 7½-horsepower motor, the lower rate for this size would be effective.

This schedule is for all alternating power, with the exception of agricultural power in general, and industrial power where the installation is in excess of 100 horsepower. Rates for industrial power where the installation exceeds 100 horsepower will be made upon investigation to determine load factor and other special conditions.

PROPOSED DIRECT CURRENT POWER RATES FOR CITY OF STOCKTON AND VICINITY.

For 1 to 5 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 5 cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 4½ cents |
| All over | 4½ cents |

For 5 to 7½ horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 4½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 3½ cents |
| All over | 3½ cents |

For 7½ to 10 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 4 cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 3½ cents |
| All over | 3 cents |

For 10 to 20 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 3½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 3½ cents |
| All over | 2½ cents |

For 20 to 30 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 3½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 3 cents |
| All over | 2½ cents |

For 30 to 40 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| All over | 2½ cents |

For 40 to 50 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| All over | 2½ cents |

For 50 to 100 horsepower—

| | |
|---|----------|
| First 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| Next 100 kilowatt hours used per installed horsepower per month..... | 2½ cents |
| All over | 2 cents |

No discounts allowed. Minimum bill \$1.00 per installed horsepower per month. When installation is on the changing line, such as a 7½-horsepower motor, the lower rate for this size would be effective.

The foregoing rates are based on a block system, whereas the rates offered by the Oro Corporation were based on a sliding scale system. In order to determine whether or not the rates presented by the Western States Company "exceed in general the rates presented by the Oro Electric Corporation" it was necessary for this Commission's rate department to make a careful analysis of the same. The result of this analysis is as follows:

With reference to the residence lighting rates, it appears that for 99 6/10 per cent of the customers of the Western States Company the rates proposed by that company are the same as those heretofore proposed by the Oro Corporation. With reference to the remaining 4/10 of 1 per cent of customers the rates proposed by the Western States Company are slightly in excess of those proposed by the Oro Corporation.

With reference to the commercial lighting rates, it appears that up to a consumption of 100 kilowatt hours the rates are the same, while from 100 to 400 kilowatt hours the rates of the Western States Company are slightly in excess of those of the Oro Corporation, and between 400 and 1,000 kilowatt hours the rates of the Western States Company

are slightly lower than those of the Oro Corporation, and beyond 1,000 kilowatt hours the rates are practically the same.

The power rates presented by the Western States Company are the same as those proposed by the Oro Corporation.

Mr. Kahn, vice president and general manager of the Western States Company, presented the following tabulation to show income estimated on the basis of the present rates for the months of September, 1912, and March, 1913, income estimated for the same months by applying the proposed rates of the Western States Company, and also income estimated by applying to the business of these two months the rates proposed by the Oro Corporation:

RESIDENCE LIGHTING.

| | Existing rates | Proposed rates of Western States Co. | Oro rates |
|-----------------------|----------------|--------------------------------------|------------|
| September, 1912 ----- | \$5,144 51 | \$4,526 44 | \$4,523 27 |
| March, 1913 ----- | 5,971 53 | 5,254 05 | 5,250 28 |

COMMERCIAL LIGHTING.

| | | | |
|-----------------------|-----------|----------|----------|
| September, 1912 ----- | 10,312 60 | 8,272 21 | 8,139 65 |
| March, 1913 ----- | 11,079 95 | 8,919 71 | 8,789 54 |

POWER.

| | | | |
|---|----------|----------|----------|
| Alternating current, average month----- | 7,102 63 | 6,660 20 | 6,660 20 |
| Direct current, average month----- | 969 27 | 840 02 | 840 02 |

It is thus apparent that the rates presented by the Western States Company are practically identical with the rates proposed by the Oro Corporation.

Mr. Kahn testified that if the rates proposed by his company are established, the result will be that the company will lose \$40,000.00 per year in gross revenue.

The Western States Company, in its letter to the Commission, states that they are presenting rates "which we consider just and reasonable." In support of the contention that the proposed rates are just and reasonable and that the company can afford to accord them, the Western States Company at the hearing presented the following statistics concerning the year ending December, 1912:

| | |
|---|--------------|
| Gross revenue electrical department Stockton division----- | \$342,449 71 |
| Operating expenses electrical department Stockton division--- | 151,085 74 |
| Net revenue ----- | \$191,363 97 |

The Stockton division consists of territory both within and without the city of Stockton, and the Western States Company claims that about 33 per cent of its electrical business in this division is outside of the city of Stockton. The Western States Company drew attention to the fact that its bond interest for the year 1912, as shown on its Exhibit No. 3, filed at the hearing, is \$176,161.25, a sum less than the net revenue from the electrical department from the Stockton division, and contended from these figures that it could reasonably accord the proposed rates.

At the original hearing in this application the Oro Corporation presented its Exhibit No. 42, showing true net earnings of the Western States Company on its electrical business for the Stockton division of 13 $\frac{2}{10}$ per cent. If this percentage is correct, a deduction of \$40,000.00 per year from the annual gross revenue would still leave net earnings amounting to over 10 per cent. While we do not here pass on the correctness of the conclusion reached by the Oro Corporation, we refer to their exhibit for what it may be worth in this connection.

I find from the evidence introduced at the hearing that the Western States Company has complied with this Commission's requirement with reference to rates. At a later date, the Commission will take up the question whether the minimum and discount provisions proposed by both companies are just and reasonable. The type of rate may also hereafter become the subject of further investigation.

I shall now refer to the matter of unification and reconstruction, including service.

The Western States Company is the successor of the American River Electric Company and the Stockton Gas and Electric Company, both of which companies operated electric systems in the city of Stockton. The American River system was a three-phase system and the Stockton Gas and Electric system was a two-phase system. The lines of these two systems extended practically throughout the city, paralleling each other along many streets. It is evident that in order to give first-class service in the city of Stockton, it was necessary for the Western States Company to unify these two systems, so that the system could be operated as a unit. As the result of such unification any class of customers, could be supplied from any of the different sources of supply. Such unification, also, would result in the elimination of unnecessary duplication. In August or September of 1912 the Western States Company entered upon this work of unifying and reconstructing its system. This work was carried on continuously thereafter with the exception of one period of three weeks by an average of nine gangs of

men, varying from nine to twenty-one men in a gang. The larger portion of the primary distribution work was completed prior to April 29, 1913. The remaining portion of the primary distribution work and most of the secondary distribution work was completed between April 30, 1913, and July 1 to 15, 1913.

In performing this work, the Western States Company has removed some 250 poles, representing duplication of its two constituent systems. In a few cases the lines of the two old systems still remain on the same street, but these cases are relatively unimportant and do not result in impairment of the service. The Western States Company has made a complete separation between power and lighting circuits. The power is now supplied throughout the city over a three-phase feeder system and the lighting over a single-phase feeder system. This change will undoubtedly result in a marked improvement in the service. The company has installed a number of new primary and secondary feeders; 158 blocks of primary feeders have been reconstructed and 460 blocks of secondary feeders. In addition to such poles and wires as were removed and as could be used in reconstruction work the company has set 268 new poles and has strung 694,669 feet of new wire. All primary lines which had heretofore been of No. 8 and No. 10 wire have been replaced with No. 6 or larger. The evidence shows that the reconstruction has eliminated the overloaded condition of feeders, shown by the evidence on the original hearing. It also appears that the company has installed automatic regulators on each lighting feeder for the purpose of minimizing the flickering, concerning which there was also considerable testimony at the original hearing.

The Western States Company has taken a considerable number of volt meter readings, so as to determine whether or not the service is now satisfactory. A number of these records were taken at the suggestion of this Commission's rate department in cases in which the testimony at the original hearing showed that the service was not what it should be. The evidence shows that as a result of the completion of the reconstruction work, the service has materially improved and is now a first-class service.

I find from the evidence at the hearing that the Western States Company has complied with this Commission's requirements in the matter of the reconstruction and unification of its system in and around the city of Stockton and with reference to the service.

At the hearing the question was asked as to what assurance the people of Stockton would have that the Western States Company would continue to give rates as reasonable as those which it now proposes and would continue to give good service. The power to fix

the rates of this company vests at present in the city council of Stockton. It will be presumed that the city authorities will not permit the Western States Company to increase its rates unless such increase is justified. The attorney for the Western States Company stated at the hearing that the proposed rates would be put in as permanent rates, and that it was not the policy of his company to increase rates.

With reference to service, it appears that the system as now unified and reconstructed is capable of taking on a considerably increased load. It is probable that with reference to service, this Commission has authority over the Western States Company. If so, the people of Stockton may rest assured that this Commission will insist that the Western States Company continue to give first-class service.

I recommend the following form of supplemental order:

SUPPLEMENTAL ORDER.

A public hearing having been held to determine whether or not the Western States Gas and Electric Company has complied with the requirements contained in this Commission's order heretofore made in the above entitled proceeding on April 29, 1913, and the Commission finding that said company has complied with each of said requirements,

It is hereby ordered that the application of Oro Electric Corporation, in the above entitled proceeding, be and the same is hereby denied with reference to the city of Stockton and the territory adjacent thereto north of the right of way of the Atchison, Topeka and Santa Fe Railway Company, as to which permission to the Oro Electric Corporation to enter the same was refused in this Commission's order and supplemental order in its Application No. 64.

It is further ordered that Western States Gas and Electric Company be authorized to make its proposed rates effective on one day's notice.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

DECISION No. 883.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE AND WILL REQUIRE THE EXERCISE BY IT OF RIGHTS AND PRIVILEGES UNDER FRANCHISES GRANTED TO IT BY THE CITY OF STOCKTON BY ORDINANCE NO. 566, APPROVED DECEMBER 30, 1912, AND BY THE COUNTY OF SAN JOAQUIN BY ORDINANCE NO. 399, PASSED JANUARY 7, 1913.

Application No. 347.

Decided August 15, 1913.

Goodfellow, Eells & Orrick, W. H. Orrick, Samuel Knight and C. L. Neumiller, for Oro Electric Corporation.

Fredric W. Stearns, Chickering & Gregory, Allen Chickering and Nutter & Orr, for Western States Gas and Electric Company.

REPORT OF THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

Argument having heretofore been had on the question whether Oro Electric Corporation's application for rehearing heretofore filed herein should be granted, and no good reason for such rehearing appearing,

It is hereby ordered that said application be and the same is hereby denied.

Dated at San Francisco, California, this 15th day of August, 1913.

I dissent.

H. D. LOVELAND,

Commissioner.

Decisions Nos. 884, 885 and 886, grade crossings; not printed. See end of volume.

DECISION No. 887.

IN THE MATTER OF THE INVESTIGATION INTO METHODS
AND EQUIPMENT OF THE PACIFIC ELECTRIC RAIL-
WAY COMPANY IN THE OPERATION OF ITS LINES OF
RAILWAY.

ON THE COMMISSION'S OWN INITIATIVE.

Case No. 431.

Decided August 15, 1913.

Held, That this accident was caused by the incompetence of the employees, said incompetence due to insufficient instruction.

Held, That defendant's method of examining and testing employees is insufficient and inadequate; that such methods do not provide for the safe operation of trains; that said road is not sufficiently provided with signals or safety devices.

Held, That defendant file with this Commission a comprehensive plan for the instruction and testing of employees; also a list of all grade crossings; signals provided at such crossings, and an estimate of the cost of installing adequate interlocking plants at said crossings.

REPORT OF THE COMMISSION.

EDGERTON and GORDON, *Commissioners*.

At about 9.20 p. m., on July 13, 1913, a three-car electric train operated by the Pacific Electric Railway Company on its so-called "Short Line" between the city of Los Angeles and Venice, collided with a standing three-car electric train operated by the same company, said collision occurring at, or near, a station called Vineyard. As a result of this collision, sixteen people died and many were seriously injured.

Within fifteen minutes of the accident, a service expert of this Commission was on the ground, he having been engaged for some time prior thereto in investigating the service and operation of this railway. From the time of the accident to the time of the hearing in this matter, the experts of the Commission were continuously engaged in investigating the causes of this collision, and also the conditions of operation of this electric railway system operating nearly 1,000 miles of trackage.

On July 22d a preliminary hearing was had herein, at which hearing it was agreed on behalf of the Pacific Electric Railway that a consideration of grade crossings should be added to this inquiry without further notice to the parties interested. Thereafter, another and more extended hearing was had at Los Angeles, beginning on the 31st day of July and

ending August 2d. Consideration was first given the matter of safeguarding the crossings of the Pacific Electric Railway tracks by highways and protecting vehicles and pedestrians against the danger of being struck by moving trains.

The city of Los Angeles and the county of Los Angeles were asked to participate in the hearing through representatives, and such representatives were present.

It was announced that this Commission had determined to assume jurisdiction in the matter of railroad crossings in cities. It was impossible to have prepared and presented at the hearing accurate data as to the location of present existing dangerous crossings, without which data no intelligent conclusion could be arrived at.

Consideration should be given, first, to the location and identification of existing dangerous crossings and the means of protecting the same; second, to the possibility of separating crossings which are at present dangerous and the means to bring about such separation; third, to a consideration of whether or not grade crossings should be permitted in the future, and if it be determined that it will be impossible to separate all future crossings, then to the proper safeguarding of such grade crossings; and, finally, consideration should be given looking toward the laying down of a rule by which all grade crossings will be eventually eliminated, probably on a basis of a progressive elimination.

At this hearing all of the trainmen who operated the standing train which was collided with and the moving train which ran into it on July 13th were called by the Commission as witnesses, and carefully examined both as to the facts surrounding the collision and as to their employment and training for the positions which they occupied. In addition, the chief engineer of the Railroad Commission and his service experts were examined as to their knowledge of the physical condition of the Pacific Electric, its equipment, rolling stock, methods of operation, etc. The Pacific Electric Railway Company introduced evidence in relation to all of these matters.

In justice to the Pacific Electric Railway here under investigation, it should be said that its president has co-operated with the Commission and its experts in an endeavor to devise and put into effect methods and equipment calculated to bring about safe and efficient operation of this system.

For the purpose of a careful and intelligent consideration of the matters herein involved, which relate to safety, we will divide the system into heads, or departments, and then comment upon the condition found in these various departments, both as to existing conditions and suggested betterments.

The system will be divided into three main departments, namely, (1) Roadbed, including rails, etc; (2) Equipment, including rolling stock, terminals, etc; (3) Train operation.

Department (3) will be subdivided into (A) Rules; (B) Discipline; (C) Signal Appliances. (C) Will be subdivided into (a) Road crossings; (b) Interlocking appliances; (c) Automatic signals.

Taking these departments up in their order, we find that as to Department (1) the Pacific Electric Railway operates over rights of way owned by it, except where it operates over city streets.

This railway system is a consolidation of a number of independent systems, not all of which were in good condition at the time of such consolidation, but since the advent of the present management the roadbed, rails, etc., have been brought up to a high state of efficiency. We find the roadbed to be rock-ballasted over a large extent of this system, and the entire track structure to be very efficient.

Department (2), Equipment, is found to be in good condition. While there are still being operated some of the cars taken over at the time of the consolidation, the larger percentage of the equipment now in use is new and of standard construction with the latest and most improved braking devices. The testimony of the representative of the company furnishing the air brakes to this system is that the Pacific Electric officers have in every instance at once adopted any improvement for the bettering of the braking appliances. The platform frames of the cars in use are unusually heavy, being re-enforced with steel and well calculated to resist heavy shock. The superstructure of these cars is of wood, and the type of car mostly in use is one with an open end. It is now proposed to re-enforce the superstructure of cars hereafter to be purchased with steel in an attempt to produce a car which will, as far as possible, resist the shock of collision, but it is not to be expected in view of all available experience that a car can be produced which will resist the shock of collision to an extent which will safeguard passengers. There has been some discussion as to whether or not additional safety could be provided by abolishing the open ends of these cars, thus permitting of a stronger superstructure, but in view of the fact that there is a widespread demand in southern California for open-end cars which will permit passengers to enjoy the air and scenery, and that it has not been shown that a material addition to safety would occur by abolishing these open ends, we do not feel justified in compelling all cars to be closed. We feel that the effort should be directed more to the prevention of collisions than to the operation of cars which would come safely through collisions.

Department (3), Train Operation:

(A) *Rules.* We find that the rules of this company embody those laid down by American Electric Street and Interurban Railway As-

sociation. It may be said generally of these rules that they are efficient and standard, but in some respects revision is desirable, particularly with a view to eliminating certain of them which are not necessary and which only encumber the mind of the operator; others should be made more definite, and inconsistencies should be eliminated.

It has been found that among the prescribed train order forms, some are never put in use, and these should be eliminated.

Rule 147 provides for a spacing of trains of not less than 2,000 feet, whereas Rule 150 provides that upon the stopping or delaying of a train under circumstances in which it may be overtaken by another train, the conductor or flagman must go back immediately with stop signals a sufficient distance to insure full protection. This rule further provides that the flagman shall go back 500 feet, place a torpedo, then continue on to 1,000 feet, and it is evident that with trains running at from 40 to 60 miles an hour, 2,000 feet apart, it will be utterly impossible for a flagman to get back 500 feet, much less 1,000 feet.

In that part of Rule 150, dealing with the use of fusees, there should be such changes as to permit the use of fusees under any circumstances which will result in affording additional protection.

Considerable discussion has been had as to whether or not Rule 94, which relates to flagging, should be made more definite, particularly that part of it which relates to the use of the red signal. As it now stands, it permits the use of judgment by the employee, and, as will appear hereafter, a failure to intelligently apply this rule may have been a factor in causing the collision here being considered. This rule is the result of careful consideration extending over a period of years by men familiar with railroad operation, and it may be that it is not capable of improvement. But it is evident from the evidence herein that either this rule is not definite and specific so as to enable an employee to adhere strictly to it, or else the instructions of the Pacific Electric employees under this rule were such as did not result in a clear understanding. We found that various interpretations were given to this rule, ranging from the declaration that it was the duty of a motorman to come to a full stop at a red flag, to the declaration by others engaged in the operation of this road that a motorman should proceed slowly, on approaching a flag, could pick it up and proceed to the place where a stop was compelled. In any event, this rule as it stands, includes directions as to the use of a yellow and a red flag, which may result in confusing the employee, and a separation should be made so that the red and the yellow flag are dealt with separately. Furthermore, the title of this section is misleading. It is "Slow Speed Signals," and seems to convey the idea of slow speed, exclusive of a stop.

The above examples are given by way of illustration of the need of a

revision of these rules, and it should not be understood that they are the only respects in which the rules should be changed.

We recommend that the Pacific Electric Railway Company prepare and present for the approval of the Commission a revision of its rules and regulations.

(B) *Discipline.* This includes the instructions, training, examining and testing of employees. We find that, as to all four of these important matters, the practice of this company was such as failed to insure reasonable competence. Taking Forster, who was the motorman on the train which collided with the standing train, as an example, and his case is typical of the other trainmen involved in this collision, we find that his application was accepted in the latter part of May, 1913. On the day after his application was accepted, he was given instructions by the superintendent, mostly about signals and flagging, for about an hour and a half, and one or two days after these instructions by the superintendent, he was put upon the Hollywood-Laurel Canyon run as a student, and he operated on cars as a student motorman for about three weeks, with some interruption for instructions in equipment. During this student period, however, he was put in independent charge of a car as motorman for two days with no other motorman to assist him. He testifies, however, that during one of these days there was a conductor of two years' experience on his car. At the end of the three weeks' student period, he was given about three hours or three and a half hours of instruction on the rules contained in the Book of Rules, and three or four days after the end of this student period of three weeks he was put upon a single car as a motorman. This was about the 24th of June, 1913, and he worked as a motorman on one and two-car trains up to the morning of the day of the accident, when he was placed in charge of a three-car train, this being the train which collided with the standing train.

Other trainmen testify that in taking their written examination they were allowed to take the examination papers home and have full access to the Book of Rules in preparing their answers to the questions asked. This clearly renders such an examination of no value, and while the testimony is that in addition to this written examination an oral examination was given, there is no record of this oral examination, and it can not be determined whether or not it was of real value. A thorough written examination given under circumstances which develop the student's understanding, or lack of it, of the rules, would be of service, not only as a test of the student, but it would constitute a permanent record which would be of value to the examiner in strengthening the student by proper instruction in those matters wherein his examination shows him to be weak.

As has been heretofore stated, the training and instructing of Motorman Forster was found to be typical of the training and examining of the other trainmen operating the cars involved in the collision, and it is apparent that in order to qualify men to properly and safely operate high-speed electric trains, operating as frequently as the trains on the Pacific Electric system are operated, a very much more thorough course of instruction and training is necessary.

Aside from any general conclusion on this subject, the actions of the men operating the trains involved in the collision, which will be more fully discussed hereafter, clearly indicate a lack of thorough knowledge of the rules and a training sufficient to enable them to promptly put such rules into effect.

The employees of this railway system should be given adequate instructions in the rules governing the operation of trains, and should be trained in the actual operation of trains for a longer period than has heretofore been required. Furthermore, a real examination should be given these men to develop their knowledge and understanding of the rules and train operation, and from time to time all of the employees operating trains should be called in and given instructions and examination as to these matters, and they should be tested from time to time to develop any weakness in their understanding of the application of the rules under which they operate. Under no circumstance should men be put in independent charge of trains, either as motormen or conductors, during their student days. Furthermore, it appears that with one exception, all of the men who operated the standing train, and the train which collided with it, were men of comparatively little experience, and every effort should be made on each train to intersperse the more experienced men with men of less experience in the operation of trains, thus avoiding what occurred in the matter of this collision, where a train was found to be wholly in charge of comparatively inexperienced men.

Officials of the Pacific Electric Railway have taken steps to remedy some of the above mentioned defects. Among other things an examiner has been appointed, who will devote himself entirely to the instructing and examining of employees.

We recommend that this company be required to prepare and submit for the approval of the Commission a complete and comprehensive plan for the thorough instructing, training, examining and testing of employees.

(C) Signal Appliances.

1. *Road Crossings.* The great frequency of accidents resulting from pedestrians and vehicles getting on the track at the crossing of a highway with a railway shows the need of safeguarding these crossings. Obviously, the best safeguard would be to separate these

crossings so that the highway would go over or under the railway track, thus entirely preventing the pedestrian or vehicle from getting on the track. However, separating grades is costly, and in the State of California, where large areas are comparatively thinly populated and where railroads have pioneered by extending their lines into territory which does not produce large amounts of business for the railroads, it would be impossible from a financial standpoint to compel the railroads to at once separate all crossings now at grade. No estimates can be made of the cost of so separating existing grade crossings, but there is no doubt that such cost would amount into the millions, and these millions would be greatly added to if all crossings now and hereafter to be made were compelled to be separated. In fact, if a rule is now adopted preventing the crossing at grade of highways by railroads and railroads by highways, except such crossings be separated, this rule would undoubtedly result in preventing, for a long time to come, the construction of railroads into new and sparsely settled territory, and the opening of necessary highways across existing railroads to satisfy the needs of new communities. However, that this problem must be given serious consideration is evident, and where existing crossings are unsafe and where the train operation is so frequent as to practically nullify the effect of warning signals, such crossings should be at once separated.

It has been the practice of the Commission to order the installation of danger signals at all crossings at grade for which application was made, except in such cases where it could be shown that such signals were not needed, as for instance, where all trains were stopped before reaching the crossing and flagged across.

As to crossings at grade established prior to the jurisdiction of this Commission, we recommend that the Pacific Electric Railway Company prepare and submit to this Commission a full and complete statement setting out the location of all crossings of the road of this system by highways, stating in each instance whether the crossing is at grade, and if so, what, if any, protection by way of signal device, or otherwise, is furnished at such crossings.

2. *Interlocking Appliances.* The crossing of the main line tracks of a railroad by other main line tracks creates a very dangerous situation, which experience shows can be best safeguarded by the installation of a modern interlocking device, and we find that every such crossing should be so protected. Therefore, we recommend that Pacific Electric Railway prepare and present to this Commission a full and complete statement showing in each instance the location of such crossings, the interlocking device installed, if any, and in addition, that said company prepare and submit for the approval of this Commission a complete diagram showing the location and type, together with the estimates

of cost, of interlocking plants at each of said crossings which are not now protected by such interlocking plants.

3. *Automatic Signals.* Experience has shown that the best and most efficient devices for safeguarding train operation yet devised is the automatic block signal system, whereby the road is divided into blocks and each block is marked with a signal so constructed that before running into any block, the trainman can tell by looking at a signal whether or not there is a train ahead in that block. In practice there has been very little failure of these signals to work and if the trainman observes them there is little probability of collision. These signals also warn against broken rails and other accidents to the roadbed which result in a breaking of the circuit of electric current, such as an open switch, etc.

In single-track operation where the train movement is not heavy, it may be that the staff signal system is sufficient.

We believe that ultimately the entire system of the Pacific Electric Railway outside of city limits should be safeguarded with the block signal system, but before ordering the complete installation of such signals, the Commission should be given information of the approximate cost, in order that it may intelligently determine whether these signals should be ordered in at once, having in view the financial burden thus imposed, or whether the railway company should more properly be ordered to progressively install such a system, say so many miles per year. The spacing of these signals will be a large factor in the cost, and in order to intelligently consider this matter, we recommend that the Pacific Electric Railway Company prepare and submit to this Commission complete diagrams, plans and estimates showing the location, type and spacing of a block signal system for the entire main line trackage, together with an estimate of the cost thereof.

In the mean time, the Pacific Electric Railway Company has volunteered to block signal its Venice Short Line, the line on which this collision occurred, and the Pasadena Short Line, outside of the city limits in both instances, and work is now proceeding on such installation.

Causes of the Accident. In considering the cause of the collision which occurred on the Venice Short Line of the Pacific Electric, near the station of Vineyard on the evening of July 13th, at about 9.20 p. m., we will follow the trains involved in this collision, because we believe that the contributing causes of this accident were both the failure to act in accordance with the rules, and also the failure to intelligently apply the rules to the circumstances surrounding this collision.

Two electric trains of three cars each were standing at Vineyard Junction, where they had been stopped by a broken trolley wire. A third three-car train approaching from the west met a flagman with a red lantern 300 feet west of the standing trains, and this moving

train stopped and picked up this flagman, who informed Motorman Lee R. Clarke, in charge of the moving train, that there was a blockade ahead. Clarke then took his train to the place where the other two trains were standing, came to a stop, and then whistled out his flagman.

The rule covering Clarke's duty under these circumstances is found in the first clause of section 150:

"When a train stops or is delayed under circumstances in which it may be overtaken by another train, the conductor or flagman must go back immediately with stop signals a sufficient distance to insure full protection."

Clarke was informed of the blockade ahead by the flagman whom he picked up, and he must have known, if he was at all familiar with the operation of the road over which he was running, that he was being followed by other trains. Clearly, then, under the rule above quoted, he did stop or was delayed under circumstances which must have made it clear to him that his train might be overtaken by another train, and it was unquestionably Clarke's duty when he picked up this flagman to immediately whistle out his own flagman to protect the rear of his train. Had this been done, the flagman, Bartholomai, would have gone back at least 300 feet further than he did, thus giving Forster warning of danger and an opportunity to stop 300 feet farther from the standing train than he was given such warning. This might have prevented the collision.

Clarke, after picking up the flagman, proceeded slowly up to the two standing trains, came to a stop and whistled out his flagman, Bartholomai, who testifies that he started west from the end of his train immediately upon hearing the whistle, with a red and white lantern, fuses and torpedoes. He testifies that he ran part of the distance when he became aware of the headlight of an approaching train and that he got 800 or 900 feet back of the end of his train at the time he was passed by the oncoming train. He stated that he was familiar with the rule requiring the placing of a torpedo at 500 feet, but states that he disregarded this rule because he believed it safer to continue on and get back as far as possible from his train in order to sooner give warning to the approaching train.

Rule 150 provides:

"Should a train be seen or heard approaching before flagman has reached the required distance, he must at once place one torpedo on the rail, and if by night or during foggy or stormy weather, display a red fusee, continuing in the direction of the approaching train."

Asked why he did not obey this rule, Bartholomai testified that to stop and place a torpedo at 500 feet would take a minute, thus reducing the distance he could get back with his red lantern. But in view of

the testimony that he had about three minutes within which to get back from the end of his train after it stopped, it is clear that he had ample time to place a torpedo, which by the way, can be done by simply reaching down and by one movement clamping it on the track. Furthermore, he offers no justification whatever for not lighting a fusee, which is a powerful signal, giving off a bright red glare that may be seen for great distances. He could have lit a fusee while walking.

Bartholomai's testimony that he was 800 or 900 feet from the rear of his train when passed by the oncoming train must be received with caution. If the testimony of Motorman Forster is to be believed at all, that his power was off and he made a service application on passing the flagman, if he had been back the distance claimed by Bartholomai, Forster's train would have come to a stop a considerable distance before colliding with the standing train.

Either Bartholomai did not go back the 800 or 900 feet he testifies to, by reason of a failure to promptly start back when his train stopped and he was whistled out, or else he did get back that distance and failed to obey the rule to place a torpedo and light a fusee immediately when he saw the oncoming train and realized that he could not get back the required distance. In either event, Bartholomai clearly failed to obey the rules or intelligently apply them.

Motorman Forster, running the train which collided with the standing train, approaching Vineyard Junction, turned his power off and whistled for the junction, and shortly thereafter observed the red lantern held by flagman, Bartholomai.

He testifies that immediately upon observing the lantern he reached for his whistle cord, blew two blasts in acknowledgment of the signal and then made a full service application of his air brake. This did not stop his train and he collided with the standing train at a speed of between 15 and 25 miles an hour. In the first place tests have shown that Forster must have had in plain sight one red tail light and several white lights of the standing train at a distance of at least 700 feet, and regardless of any failure to place signals to warn him he should have seen these lights. Had he done so and immediately applied his brakes with the emergency or full service application he probably would have avoided this collision.

By test, a train such as Forster controlled was stopped within 425 feet with full service application, and within 400 feet with an emergency application.

Forster admits he saw the red lantern in Bartholomai's hand, but does not know at what distance. He testifies that he did not make an emergency application of the air brake, because he thought he had sufficient time to make a safe stop.

He violated Rule 94 which reads:

“If a danger signal (red flag by day and in addition red light by night) is seen, train will be brought to a full stop and will not proceed until such signal is removed by proper person.”

Instead of concluding that he had safe stopping distance beyond the flag, he should, under this rule, have used every effort to bring his train to a stop immediately upon seeing the flag.

From the foregoing, it will appear that the three principal actors in the matter of this collision, to wit, Motorman Clarke, Flagman Bartholomai and Motorman Forster, each contributed to the cause of this collision, either by a violation of the rules of operation or by a failure to intelligently apply such rules, and while we are reluctant to place the blame for the resulting tragedy, we feel it our duty to say that this collision resulted from the incompetence of these trainmen, the underlying cause of which incompetence appears to be the insufficient instruction, training, and examination given these men by officials of the company.

We submit herewith the following form of order:

ORDER.

This Commission having made its order for an investigation on its own initiative into methods and equipment of the Pacific Electric Railway Company, and said company having been duly notified to appear at a hearing in said matter, and said company having duly appeared at said hearing, and it having been agreed by stipulation that there should be added to this matter a consideration of the crossings of highways with said railway company, and the proper safeguarding thereof, and said hearing having been duly held and this Commission being fully advised in the premises, it is hereby found as a fact that the methods and practices of the Pacific Electric Railway Company in the instructing, training, examining, and testing of its employees is insufficient and inadequate, and such methods and practices do not provide competent employees for the safe operation of said Pacific Electric Railway Company's trains; and it is hereby further found as a fact that the operation of the railway system of the Pacific Electric Railway Company is not provided with sufficient, adequate, and safe signaling devices, and basing its order upon the above findings of fact and the further findings contained in the foregoing opinion,

It is hereby ordered that the Pacific Electric Railway Company submit for the approval of this Commission within sixty days from the date of this order the following:

A comprehensive and complete plan for the instructing, training, examining, and testing of its employees, and within a like period submit for approval a complete and comprehensive diagram and plan of an automatic block signal and staff signal system, covering its entire sys-

tem outside of city limits, including the location, type, and estimates of cost of such signaling system.

A complete statement showing the location of all crossings of its tracks by roads or highways; whether such crossings are at grade or are separated; what, if any, protection or warning is provided at such crossings.

A complete statement showing the location of crossings of main line tracks by other main line tracks, the protection against collisions which now exists at such crossings, together with estimates of the cost of installing at all such crossings adequate interlocking plants in compliance with this Commission's General Order No. 33; provided, further, that this proceeding will remain open for the rendering of further orders in the premises.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1913.

DECISION No. 888.

IN THE MATTER OF THE APPLICATION OF THE DELANO-LINNS VALLEY TELEPHONE COMPANY AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION THE ONE TO ENTER AND THE OTHER TO WITHDRAW FROM CERTAIN TERRITORY SITUATED IN KERN COUNTY, CALIFORNIA.

Application No. 638.

Decided August 19, 1913.

Application of the Delano-Linns Valley Telephone Company and the Pacific Telephone and Telegraph Company, the one to enter and the other to withdraw from certain prescribed territory situated in Kern County, granted, subject to certain conditions.

Ben Thomas, for Delano-Linns Valley Telephone Company.

John C. Danner and *Lee S. Danner*, for the John C. Danner Company.

H. A. Johnson, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application involving the withdrawal of one company, operating a public utility, from certain territory in favor of another

company operating a public utility in the same territory, and involving also a physical connection between the lines of the two companies.

Evidence was introduced at the hearing showing that both parties to the application are, to a limited extent, serving the same territory and that neither company is meeting the requirements of an adequate telephone service. Each company is operating independently of the other with no means of intercommunication between patrons of the two systems except by repeating messages. A physical connection between the lines of the two companies would serve the public convenience and for this reason it is desired by both companies to establish such physical connection and to enter into a connecting agreement for the interchange of traffic.

It was also shown that The Pacific Telephone and Telegraph Company, which company owns the telephone exchange at Delano, has connected with that exchange one subscriber located within the territory from which it desires to withdraw in favor of the Delano-Linns Valley Telephone Company. In withdrawing from this field, it desires to discontinue serving this subscriber and to allow the Delano-Linns Valley Telephone Company to connect him with its system. No objection to this change of service was offered, and, as a logical means of providing service adequate to the public necessity, I see no reasonable objection to allowing the change to be effected.

The hearing developed the further fact that a portion of the territory which the Delano-Linns Valley Telephone Company proposes to serve was being served previous to the construction of its lines and still is being served by the John C. Danner Company, another local telephone company having connection with The Pacific Telephone and Telegraph Company's system through that company's exchange at Porterville, California.

To avoid confusion and duplication of plant incident to the operation of two telephone systems in the same field, it was agreed by the Delano-Linns Valley Telephone Company and the John C. Danner Company that each should withdraw, the Delano-Linns Valley Company from a certain portion of the territory now served by each, in favor of the Danner Company, and the Danner Company from a certain other portion of the territory also served by each, in favor of the Delano-Linns Valley Telephone Company, and that the entire territory should be so divided as between the two companies involved as to define a separate territory to be served by the lines of each respective company with the following exception:

There is at present connected with the telephone system of the John C. Danner Company, and located in territory defined as the territory to be served by the Delano-Linns Valley Telephone Company, one subscriber, by name Tom McIntyre, who, having paid for the construction

of his portion of the line to insure a desired service into Porterville, desires and is reasonably entitled to a continuation of that service and which the two companies involved agreed should be continued. The order herein recommended is made contingent upon this division of territory, defining a separate and specified field for the operations of the Delano-Linns Valley Telephone Company and the John C. Danner Company, respectively.

The monthly rates which the Delano-Linns Valley Telephone Company desires to charge for service are the rates heretofore filed with the Commission. In addition to these rates, it desires to establish a rate for toll service of 25 cents for two minutes or less, with an additional charge of 10 cents per minute for each additional minute. This rate constitutes an increase over the rate filed with the Commission since the schedule on file allows a period of three minutes for the initial rate of 25 cents. It was suggested, and the Delano-Linns Valley Company agreed, that, pending the final disposition of an application now before the Commission for an adjustment of toll charges designed to become generally applicable throughout the State, the application should be so modified as to provide the same rate for toll service as is now charged and on file with the Commission, and the order herein recommended is made contingent upon the application being so modified.

The proposed connecting agreement provides for the payment by The Pacific Telephone and Telegraph Company to the Delano-Linns Valley Telephone Company of 15 per cent of the Pacific Company's tolls on business originating on the lines of the Delano-Linns Valley Company, the charges for which are collected by the Delano-Linns Valley Company, and the payment by the Delano-Linns Valley Company to the Pacific Company of 50 per cent of all of the Delano-Linns Valley Company's tolls on business originating on the Pacific Company's lines or on the lines of its connecting companies. This payment of 50 per cent of its tolls to the Pacific Company by the Delano-Linns Valley Company is by reason of the latter company having no exchange or switchboard through which to operate its own lines, thereby placing the responsibility and expense of operating and accounting upon the Pacific Company. No other charge is made by the Pacific Company for this service and until or unless otherwise determined by this Commission it may be considered an operating and accounting charge to which no reasonable objection appears.

In view of the situation herein developed, the following order is recommended:

ORDER.

Application having been made by the Delano-Linns Valley Telephone Company and by The Pacific Telephone and Telegraph Company, the one to enter certain territory in Kern County, California, and the other

to withdraw from said same territory as defined in that certain proposed connecting agreement filed with this application, except as to such modifications and changes in said territory as are hereinafter provided, and a hearing having been held thereon and no objection appearing.

It is hereby ordered that the application of the Delano-Linns Valley Telephone Company and The Pacific Telephone and Telegraph Company, the one to enter certain territory in Kern County, California, and the other to withdraw from the said same territory as a public utility operating a telephone plant as hereinbefore provided be and the same is hereby granted; providing, that the territory defined in the proposed connecting agreement herein referred to shall be so divided as to limit the operation of the Delano-Linns Valley Telephone Company's lines to that portion lying west and south of a line drawn through said territory as follows until or unless otherwise ordered or authorized by this Commission:

Beginning at a point in the northern boundary of the territory defined in the proposed connecting agreement, herein referred to, and on the line between township 25 south, range 28 east, and township 25 south, range 29 east, thence running due south along said line a distance of three miles to a point between the southeast corner of section 13, township 25 south, range 28 east, and the southwest corner of section 18, township 25 south, range 29 east, thence due east to a point forty rods west of the southeast corner of section 15, township 25 south, range 29 east, a distance of forty rods less than four miles, thence due south a distance of three miles to a point forty rods west of the southeast corner of section 34, township 25 south, range 29 east, thence due east a distance of eight miles to the eastern boundary of the territory defined in the said proposed connecting agreement.

And provided, further, that as to the said territory herein defined, the J. C. Danner Company shall continue to provide service for one of its present subscribers, by name Tom McIntyre, located within the territory herein provided to be served by the lines of the Delano-Linns Valley Telephone Company, but the said J. C. Danner Company shall not otherwise extend or operate any other telephone lines within the territory herein defined until or unless otherwise ordered or authorized by this Commission.

And provided, further, that this application shall be so modified as to provide a rate for toll service for messages passing over the line of the Delano-Linns Valley Telephone Company of 25 cents for three minutes or less and 10 cents for each additional minute or fraction thereof over the first three minutes until otherwise authorized by this Commission, and it is further provided that this permission is not to be taken as approval of the rates since the Commission has not yet passed upon their ultimate reasonableness. Except as to rates, which

may if desired be and become effective as of the date of this order this order to be and become effective upon the filing with this Commission of a revised connecting agreement on the part of the two companies involved, said revised connecting agreement to define the territory as hereinbefore provided and said filing to be made within thirty days of date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of August, 1913.

Decisions Nos. 889 and 890, grade crossings; not printed. See end of volume.

DECISION No. 891.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY COMPANY FOR A DECISION AS TO WHETHER OR NOT CERTAIN BONDS HAVE BEEN ISSUED, AND FOR PERMISSION TO ISSUE THE SAME.

Application No. 666.

Decided August 19, 1913.

Held, That bonds delivered prior to the effective date of the Public Utilities Act, but upon which no actual value had been paid, can not be considered as legally issued by the Commission.

Held, Applicant permitted to issue \$500,000.00 face value of bonds, said bonds to be pledged as security of an issue of promissory notes or to be sold at not less than 80, proceeds to be used to complete applicant's line of railway between Bay Point and Sacramento.

Jesse Steinhart, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application of the Oakland, Antioch and Eastern Railway for a decision of this Commission as to whether certain bonds of said company have been issued, under the provisions of the Public Utilities Act, and if not, for an order of this Commission authorizing such issue. The application refers to that portion of this Commission's Decision No. 771, in Application No. 608, rendered on application of

Oakland, Antioch and Eastern Railway on July 2, 1913, reading as follows:

"Applicant stated that it had placed \$500,000.00 of its bonds on contract and some uncertainty was expressed whether these bonds were actually issued under the terms of the Public Utilities Act. In order to obviate any misunderstanding on this point, applicant's attorney stipulated that before it finally placed these bonds it would submit the question of their issue to the Commission for determination. The hearing upon the present application included also the \$500,000.00 of bonds in question and the authorization to issue the \$1,000,000.00 of bonds as applied for assumes that there will be an early determination of the status of the \$500,000.00 of bonds above mentioned "

In said Decision No. 771 this Commission authorized the issue by Oakland, Antioch and Eastern Railway of bonds of the face value of \$1,000,000.00 for the purpose of meeting past and future expenditures in connection with the construction of applicant's line of railway from Bay Point, in Contra Costa County, to the city of Sacramento. The bonds affected by this proceeding are five hundred bonds of the face value of \$1,000.00 each, numbered 2501 to 3000, inclusive. On March 20, 1912, three days before the effective date of the Public Utilities Act, the Oakland, Antioch and Eastern Railway entered into a contract with H. C. Breeden of the city and county of San Francisco, in which contract the railway company agreed to sell and Mr. Breeden agreed to buy these bonds at the price of 85 per cent of their face value plus accumulated interest. It was provided that Breeden could take up the bonds in blocks of fifty each. All of the bonds were to be taken and paid for within two years. They were to be placed in escrow with the Union Trust Company of San Francisco, which company was instructed to make delivery at any time within the life of the contract upon receiving the purchase price, after deducting overdue interest. It was further provided that the contract might be terminated by either of the parties during its life upon the payment to the other of the sum of \$500.00. These bonds were placed in escrow with the Union Trust Company under this agreement prior to March 23, 1912. None of them were ever paid for by Mr. Breeden, and all of them are still with the Union Trust Company, which company has become Breeden's assignee under the contract. Subsequent to March 23, 1912, at a time when Mr. Breeden was a director of the Oakland, Antioch and Eastern Railway, these bonds were pledged by Breeden to the Union Trust Company as security for a note of the railway company in the amount of \$300,400.00. Mr. Breeden was not a director of the railway company at the time the agreement was entered into.

While there is nothing said in the agreement with reference to the payment of any amount of money to bind the contract, applicant testified that it believed that \$100.00 had been paid on the agreement.

This Commission has heretofore held that bonds would not be regarded as having been issued prior to the effective date of the Public Utilities Act unless before that time they had actually been delivered for value. This value must not be merely colorable, and it must appear that delivery was made in good faith for the purpose of actually passing title under an agreement which the parties did not expect thereafter to cancel. It is evident that the bonds now referred to were delivered on the payment of the most nominal consideration to bind the bargain, under an agreement under which either party could cancel the contract under the payment of another nominal consideration, which consideration might be waived by consent of the other party. It should also be remembered that the transaction was consummated only three days prior to the effective date of the Public Utilities Act.

Taking into consideration all the facts in the case, I am of the opinion that these bonds have not been issued as that word is used in the Public Utilities Act. Mere delivery to a bank or trust company in escrow does not necessarily constitute delivery. Whatever the intention may have been, the jurisdiction of this Commission still attaches to these bonds, and they will be regarded in this opinion as though they had never been issued.

The applicant now asks that if these bonds have not been issued, this Commission make its order authorizing their issue, either for use as collateral as security for promissory notes which shall be in an amount not less than 60 per cent of the face value of such bonds as may be pledged, or for the purpose of sale at not less than 80 per cent of their face value, in which event the proceeds would be used to pay indebtedness heretofore incurred or hereafter to be incurred for the construction of applicant's line of railway between Bay Point and Sacramento.

The purposes for which said indebtedness has been incurred, or would be incurred, are specified in Exhibit B attached to the petition in Application No. 608, which exhibit is hereby referred to. This exhibit shows the total estimated expenditures from Bay Point to Sacramento on this Commission's final summary sheet for physical valuation of electric railroads. The exhibit shows the estimated total original cost of construction to be \$3,707,330.00, and the estimated reproduction value to be \$4,390,523.00. The difference is represented chiefly by the increase in the value of land.

In its opinion and order in Application No. 608 this Commission carefully examined applicant's financial condition, and held that on the assumption that the \$500,000.00 of bonds herein referred to were issued, it could authorize the issue of an additional \$1,000,000.00 of bonds. Since the date of this Commission's decision on said application, applicant has levied an assessment of \$5.00 per share on 100,000 shares of outstanding stock. Applicant testified that it was confident that practically all of the assessment would be paid, thereby materially strengthening its financial condition.

I find the proceeds of the bonds hereby authorized to be issued are not reasonably chargeable to operating expenses or to income.

On the basis of the conclusion reached by this Commission in Application No. 608, I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Oakland, Antioch and Eastern Railway having applied to this Commission for a decision as to whether or not its bonds Nos. 2501 to 3000, inclusive, referred to in agreement between said company and H. E. Breeden, dated March 20, 1912, have been legally issued, and if they have not been so issued, for an order of this Commission authorizing their issue for purposes hereafter specified, and a public hearing having been held on said application, the Railroad Commission hereby finds as a fact that said bonds have not been legally issued as said words are used in the Public Utilities Act; and the Commission further finding that the purposes for which the bonds hereinafter authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

(1) Oakland, Antioch and Eastern Railway is hereby authorized to issue its bonds numbered 2501 to 3000, inclusive, of the total face value of five hundred thousand (\$500,000) dollars, said bonds to be payable on the first day of October, 1941, and to bear interest at the rate of five per cent (5%) per annum, payable semiannually, under and in pursuance of a deed of trust or mortgage executed by said Oakland, Antioch and Eastern Railway to Union Trust Company of San Francisco as trustee, under date of October 1, 1911, on the following conditions and not otherwise:

(a) Said bonds may be pledged in whole or in part as security for indebtedness heretofore or hereafter incurred for the purposes specified in Exhibit B, attached to the petition in Application No. 608, said indebtedness to be evidenced by promissory notes of a face value not

less than sixty per cent (60%) of the face value of such bonds as may be pledged as collateral security; or,

(b) Before or after such pledge, said bonds may be sold so as to net said company not less than eighty per cent (80%) of the par value of the principal thereof, besides interest accrued thereon, in which event the proceeds shall be applied only for the purposes of completing its line of railway from Bay Point, Contra Costa County, to Sacramento, Sacramento County, and in the completion of its branch line from Bay Point to Antioch, Contra Costa County, and for such betterments and in substantially such amounts as are set forth as "original cost" in said "Exhibit B" filed with the petition in Application No. 608, and more specifically for the payment of such accounts payable and notes payable as have heretofore accrued and been given or as may hereafter accrue or be given for said purposes.

(2) Oakland, Antioch and Eastern Railway shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds from the sale or pledge of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month it shall make verified reports to the Commission stating the sale or sales or pledge of said bonds during the preceding month, the terms and conditions of sale or pledge, the moneys or property realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority hereby given to pledge or sell bonds shall not become effective until said bonds Nos. 2501 to 3000, inclusive, shall have been returned to the treasury of Oakland, Antioch and Eastern Railway, and the agreement for the sale thereof canceled and a certified copy of such agreement as canceled filed with this Commission.

(4) The authority hereby given to issue bonds shall apply only to such bonds as may be issued prior to August 15, 1914.

(5) The authority hereby given to issue bonds is contingent upon the payment of the fee specified in section 57 of the Public Utilities Act as amended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of August, 1913.

DECISION No. 892.

IN THE MATTER OF THE APPLICATION OF THE DELANO-LINNS VALLEY TELEPHONE COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE STOCK.

Application No. 673.*Decided August 19, 1913.*

Application of the Delano-Linns Valley Telephone Company to issue ten shares of stock of the par value of \$25.00 per share, granted.

Ben Thomas, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application involving the authorization of the Commission for an issue of certain stock in lieu of a previous issue of stock made since March 23, 1912, without the authority of the Commission.

Evidence introduced at the hearing developed that on various dates since the Public Utilities Act became effective ten shares of common stock were issued and sold at their par value of \$25.00 per share in violation of the law; that the issue was made in ignorance of the provisions of the Public Utilities Act, and that the entire amount of cash realized from the sales was used in making betterments and additions to the applicant's system. On this showing the following order is recommended:

ORDER.

Application having been made to this Commission by the Delano-Linns Valley Telephone Company for an order authorizing it to issue ten shares of its common stock of a par value of \$25.00 per share each, in lieu of the said equal number of shares heretofore issued without the approval of this Commission in ignorance of the provisions of the Public Utilities Act, the full amount of money received from the sales of said ten shares heretofore issued having already been used for additions and betterments to the applicant's telephone plant, and a hearing having been held, and it appearing that the purposes for which the money was received from the sales of said ten shares of stock were not in whole or in part reasonably chargeable to operating expenses or to income; and it appearing, further, that the applicant received not less than 100 per cent of the par value thereof for said stock,

It is hereby ordered that the Delano-Linns Valley Telephone Company

be and it hereby is granted authority to issue ten shares of its common stock upon the following conditions, and not otherwise:

1. Said stock herein authorized shall be issued to the following persons in substitution for an equal number of shares shown to have been issued on December 21, 1912, January 27, 1913, April 12, 1913, March 26, 1913, May 7, 1913, as follows:

Four shares to Walter J. Wallace on December 21, 1912.

Two shares to F. A. Rutledge on January 27, 1913.

One share to S. L. Cole on April 12, 1913.

One share to L. L. Miller on March 26, 1913.

Two shares to Henry Hamline Hall on May 7, 1913.

2. The company shall report to the Commission the fact and the date of such issue.

3. Before said stock shall be issued the certificates of stock, in lieu of which said stock is hereby authorized to be issued, shall be called in by applicant and canceled.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of August, 1913.

DECISION No. 893.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY TO PURCHASE AND OF NORTHERN ELECTRIC RAILWAY COMPANY TO SELL A ONE HALF INTEREST IN CERTAIN RAILROAD TRACKS AND APPURTENANCES LOCATED ON M STREET IN THE CITY OF SACRAMENTO.

Application No. 679.

Decided August 19, 1913.

Application of the Oakland, Antioch and Eastern Railway Company to purchase and the Northern Electric Railway Company to sell a half interest in certain tracks in the city of Sacramento for the sum of \$11,403.00, granted, subject to certain conditions.

Jesse Steinhart, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application of Oakland, Antioch and Eastern Railway and Northern Electric Railway Company for an order authorizing the former to purchase and the latter to sell a one half interest in certain tracks of the Northern Electric Railway Company lying on M street in the city of Sacramento, for the sum of \$11,403.00.

The tracks affected commence at a point where the single track of the Northern Electric Railway Company leaves the M street bridge, and running thence easterly along M street to a switch point located on M street between Second and Third streets, said point being the beginning of a curve of 165-foot radius, which leaves at said point and turns northerly up Third street.

The Northern Electric Railway Company has built said track as successor in interest of the Vallejo and Northern Railway Company under franchises secured from the city of Sacramento by Ordinances Nos. 791 and 797. Said franchises provided in part that upon payment of the just proportion of the costs of construction and of the maintenance, the grantee of a subsequent franchise over the same street might use such tracks as might be laid on said M street, among others, whereupon the grantee, by said Ordinances Nos. 791 and 797, its successors or assigns, should control the movement of the trains upon said M street from the center of the river to the intersection of said M and Front streets. Thereafter, by Ordinance No. 46, Second Series, approved June 27, 1912, Oakland, Antioch and Eastern Railway was given the right to construct, lay down, maintain and operate a double track standard gauge railroad for the transportation of freight, mail, baggage, express and passengers, for reward, along certain streets in the city of Sacramento, including M street, from its intersection of the center line of the Sacramento River easterly to its intersection with the center line of Third street.

The franchise gave to the Oakland, Antioch and Eastern Railway the right referred to in Ordinances Nos. 791 and 797 to purchase an interest in the tracks of the Northern Electric on M street and thereafter to operate its trains thereover. The Oakland, Antioch and Eastern Railway desires to acquire a half interest in said tracks of the Northern Electric Railway Company and agrees to pay therefor the sum of \$11,403.00, being one half of the amount claimed by Northern Electric Railway Company as representing the cost of these tracks.

The order in this case will contain the usual condition to the effect that the price agreed upon by the utilities shall not be taken by this

Commission or any other public authority as representing for rate fixing or any other purpose the value of the property.

The city of Sacramento was notified of the hearing in this case. A telephone message was received from the city authorities to the effect that they had no objection to the granting of the application and that they would not be represented.

It is evident that it is more desirable to have both railways use the existing tracks of the Northern Electric Railway Company than to have the Oakland, Antioch and Eastern Railway construct additional tracks on M street paralleling those of the Northern Electric.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Oakland, Antioch and Eastern Railway and Northern Electric Railway Company having filed with this Commission their application, on the part of the former to purchase and of the latter to sell for the sum of \$11,403.00, a half interest in those certain tracks of the Northern Electric Railway Company now lying on M street in the city of Sacramento between the point where the single track of the Northern Electric Railway Company leaves the M street bridge to a point between Second and Third streets, which point is the beginning of a curve of 165-foot radius leaving the track at that point and turning northerly upon Third street, and a public hearing having been held upon said application and it appearing that public convenience and necessity will be served by the granting thereof,

It is hereby ordered that said application be and the same is hereby granted, subject to the condition that the price to be paid for said half interest shall not be used before this Commission or any other public authority as representing for rate fixing or other purposes, the true value of a half interest in said property.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of August, 1913.

DECISION No. 894.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR THE APPROVAL OF A LEASE OF RAILROAD EQUIPMENT DATED MARCH 1, 1913, FROM COMMERCIAL TRUST COMPANY TO SOUTHERN PACIFIC COMPANY, AND AN AGREEMENT DATED MARCH 1, 1913, BETWEEN HARRY E. RIGHTER AND WM. L. FRY WITH COMMERCIAL TRUST COMPANY AND SOUTHERN PACIFIC COMPANY AND FOR AN ORDER AUTHORIZING THE ISSUANCE OF TRUST CERTIFICATES AS PROVIDED IN SAID LEASE AND AGREEMENT.

Application No. 484.

Decided August 21, 1913.

Guy V. Shoup and Henley C. Booth, for Applicant.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Southern Pacific Company having filed with this Commission a second supplemental application, stating that since this Commission's order of May 9, 1913, in the above entitled proceeding, Series A, Equipment Trust Certificates, in the amount of \$5,000,000.00 have been sold on terms a little better than those permitted in this Commission's supplemental order dated May 9, 1913, in the above entitled proceeding, and that there remain unsold equipment trust certificates of the par value of \$5,120,000.00, the sale of which is necessary to pay for equipment under contract, the delivery whereof is now due, but that the condition of the money market is such that the Southern Pacific Company will probably be unable to market the remaining certificates on terms as advantageous as those heretofore secured, and that market conditions are changing so that it will be necessary to have an additional margin of 2 per cent for discounts and commissions authorized by this Commission, so that market conditions may be met; and the Commission being of the opinion that no further hearing is necessary in this matter and that the second supplemental application has been made in good faith and should be granted,

It is hereby ordered that the Southern Pacific Company, in order to enable it to obtain subscriptions for said equipment trust certificates, be and the same is hereby authorized to pay discounts and commissions

not to exceed six (6%) per cent on the basis of the average maturity of the face amount of said equipment trust certificates not heretofore sold.

Dated at San Francisco, California, this 21st day of August, 1913.

DECISION No. 895.

IN THE MATTER OF THE APPLICATION OF W. W. LAFFERTY
FOR PERMISSION TO INCREASE CHARGES FOR WATER
SUPPLIED IN THE TOWN OF CALLAHAN, SISKIYOU
COUNTY, CALIFORNIA.

Application No. 569.

Decided August 21, 1913.

Applicant permitted to increase rates for water service in the town of Callahan, California.

REPORT OF THE COMMISSION.

This is an application by W. W. Lafferty for permission to increase the rates charged for water supplied by him in the town of Callahan, Siskiyou County, California. The application alleges that the rates now in effect are as follows:

| | |
|--|----------------|
| Residences, flat rate per month..... | \$1 00 |
| Hotel, flat rate per month..... | 5 00 |
| One extra large residence, including bath, lavatory, etc., flat rate per month | 2 50 |
| One store having thereat three faucets, water wheel used in hoist- ing elevator, and which develops one horsepower—one upper corral for water, seven head of horses a part of the time each week, and one lower corral used for watering fifteen mules per week in the summer time, flat rate per month..... | 3 00 |
| Maximum income per month, as above shown..... | \$25 50 |

The applicant desires to put into effect the following rates:

| | |
|--|--------|
| For dwelling houses for household purposes, a flat rate to each per month of..... | \$1 25 |
| For each toilet, per month..... | 35 |
| For each lavatory, per month..... | 15 |
| For each bathtub, per month..... | 35 |
| For water power for each washing machine, per month..... | 75 |
| For each hotel (no increase), per month..... | 5 00 |
| For each corral for one horse, or one cow, per month..... | 35 |
| For each additional horse or cow, per month..... | 20 |
| For water power to run water wheels, for each one horsepower, per month | 2 00 |

The application further alleges that the water used to supply the town of Callahan has its source in springs at a very high elevation above the town, and is handled through water tanks and reservoirs having a maximum capacity of approximately 21,000 gallons, and that the water is carried down through a pipe line approximately one and one half miles in length, and that in addition thereto there is about 700 feet of extra pipe above the tank; that applicant is unable to state authoritatively the original cost of the water system, but believes the same to have cost approximately \$5,000.00; that applicant will, in the near future, have to make an expenditure of between \$25.00 and \$50.00 in order to repair the main tank used in his system.

If the applicant collects all of his water bills each month he will have, under the rates now in effect, a maximum income of \$25.50 per month. Under the proposed schedule of rates this maximum will probably be increased to about \$33.00 per month. If applicant is correct in placing a value of approximately \$5,000.00 on the system, it would appear that applicant is clearly entitled to this increase. It is the policy of the Commission in general, however, to permit a utility to increase its rates only after the consumers of the utility have been notified of the proposed increase and have had an opportunity to be heard thereon. Accordingly, the Commission, upon receipt of the present application, addressed a letter to each of Mr. Lafferty's consumers setting forth the proposed increase of rates and requesting that the Commission be notified as to any objections thereto. The Commission received replies from only three of Mr. Lafferty's consumers. Two of these communications stated merely that as a matter of opinion the writer believed that the present rates were high enough. The third letter set forth objections in greater detail, but stated the writer would not object to the increase in rates provided he received an adequate supply of water. The Commission has given careful consideration to each of the objections presented, but is of the opinion, however, that these objections do not meet the merits of the application. Of course, should it later appear that the new rates are excessive, application may be made to the Commission by the consumers to have the same reduced.

The following order is, therefore, recommended:

ORDER.

W. W. Lafferty, having applied to this Commission for permission to increase the rates charged for water service in the town of Callahan, Siskiyou County, California, and the water consumers of this system having been duly advised of this application, and after careful consideration it appearing to the Commission that this application should be granted,

It is hereby ordered that on and after September 1, 1913, W. W. Lafferty be and he hereby is authorized to put into effect the following

30—BD

schedule of rates for water served in the town of Callahan, Siskiyou County, California:

| | |
|--|---------------|
| For dwelling houses for household purposes, a flat rate to each per month of ----- | \$1 25 |
| For each toilet, per month----- | 35 |
| For each lavatory, per month----- | 15 |
| For each bathtub, per month----- | 35 |
| For water power for each washing machine, per month----- | 75 |
| For each hotel (no increase), per month----- | 5 00 |
| For each corral for one horse, or one cow, per month----- | 35 |
| For each additional horse or cow, per month----- | 20 |
| For water power to run water wheels, for each one horsepower, per month ----- | 2 00 |

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated as San Francisco, California, this 21st day of August, 1913.

DECISION No. 896.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE COMPANY OF COVINA FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AND THE EXECUTION OF A MORTGAGE OR DEED OF TRUST TO SECURE THE SAME.

Application No. 637.

Decided August 21, 1913.

Held, Applicant permitted to issue bonds of the face value of \$87,000.00; \$47,000.00, face value, of said bonds to be used in exchange, bond for bond, of an equivalent number of its first authorized issue of bonds now outstanding; proceeds from the sale of \$40,000.00, face value, of said bonds to be used to refund certain one-day notes and the balance in additions and betterments to plant.

Held, Applicant permitted to issue bonds of the total face value of \$9,300.00 in lieu of bonds heretofore illegally issued.

Arthur Wright, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue bonds for the purposes hereinafter indicated, and to execute a mortgage or deed of trust to secure the same.

Applicant is a public utility supplying local telephone service to Covina, Azusa, Glendora, San Dimas, Charter Oak, Irwindale, Vineland, Baldwin Park, Basset, Puente, Rowland and vicinity, in Los Angeles County. Applicant has telephone exchanges in Covina and Azusa, and has a total of about 1,560 subscribers. The population of the territory served by applicant is between 5,000 and 6,000, and is rapidly growing.

Applicant's total authorized capital stock is 4,000 shares, of the par value of \$50.00 each, being a total par value of \$200,000.00. Of the stock so authorized stock of the par value of \$83,900.00 has been issued.

Applicant has an authorized bond issue of \$50,000.00, secured by mortgage or deed of trust to Title Insurance and Trust Company, a corporation, having its principal place of business in the city of Los Angeles. The present condition of this authorized issue is as follows:

| | |
|------------------------------|--------------------|
| Sold to the public----- | \$40,700 00 |
| Pledged to secure notes----- | 7,000 00 |
| In sinking fund----- | 2,300 00 |
| Total ----- | <u>\$50,000 00</u> |

It appears that of the bonds so issued, the following bonds were issued subsequent to March 23, 1912, without the prior consent of this Commission:

Bonds of the face value of \$700.00, in exchange for a lot in the city of Covina;

Bonds of the face value of \$1,600.00, which were sold at 95 per cent of their face value;

Bonds of the face value of \$7,000.00, which were pledged as security for certain notes.

As these bonds were all issued subsequent to March 23, 1912, without the consent of this Commission, it is clear, under the provisions of section 52 of the Public Utilities Act, that they are all void. It will accordingly be necessary for applicant to call them in and cancel them. Applicant asks that its application be amended, if necessary, so as to ask authority to issue other bonds in lieu of those heretofore illegally issued. The application may be considered amended in this respect. It is clear that all these bonds were issued in good faith, without any intention to violate any of the provisions of the Public Utilities Act. I shall recommend that the order authorize the issue of new bonds of the first authorization in lieu of those which have been illegally issued.

Applicant owes \$18,000.00 to the First National Bank of Covina, which sum is represented by various one-day notes. Applicant's current accounts are not over \$400.00 or \$500.00.

Heretofore, in Application No. 110, this Commission authorized the issue by applicant of 369 shares of its capital stock, of the par value of \$50.00 per share, the proceeds to be used to pay off applicant's

existing indebtedness to banks, the surplus to be left in the hands of the company for such further disposition as might thereafter be authorized by this Commission. The stock was to be sold so as to net said company not less than 95 per cent of the par value thereof. Applicant has sold 47 shares of said stock and has used the proceeds to pay off a portion of its indebtedness to the First National Bank of Covina. Applicant alleges that because of the destruction by the frost of last winter of the citrus fruit crop in the vicinity of its operation and because of the uncertainty of stock dividends, it has become difficult to sell additional stock of the issue authorized by this Commission.

Applicant now asks authority to authorize a new bond issue in the total amount of \$200,000.00, and to use bonds of the face value of \$50,000.00 of this issue to retire the bonds of the present issue, and to issue an additional amount of \$40,000.00, face value, for the purposes hereinafter specified, and to execute a new deed of trust or mortgage to secure the issue of said bonds.

As this Commission's authority is not required for the initial authorization of a bond issue, but merely for the actual issue of the bonds so authorized, it will not be necessary to pass on that portion of the prayer which asks this Commission to authorize the creation of a possible bonded indebtedness in the amount of \$200,000.00. It will be necessary, however, for the Commission to pass on the bonds which it is proposed now to issue. As it is evident that the amount of outstanding bonds of the present issue is only \$47,700.00, it will be necessary to authorize no more than this amount of bonds of the proposed new issue to take up the outstanding bonds. The present bonds bear interest at the rate of 5 per cent per annum, while the proposed bonds are to bear interest at the rate of 6 per cent per annum. Applicant claims that before it can sell advantageously the additional \$150,000.00 of bonds which are to be included in the new authorization, it will be necessary to call in the existing bonds and to cancel the mortgage which secures them. While, if nothing further appeared, it would certainly be poor business to replace a 5 per cent bond by means of a 6 per cent bond, I am satisfied, under all the circumstances of this case, that it would be good business for applicant to call in the outstanding issue with 6 per cent bonds, so as to facilitate the sale of the remaining bonds of the proposed issue, all of which bonds will then be secured by a first mortgage. Applicant's secretary testified that, in his opinion, it would be possible to exchange bonds of the new issue for the outstanding bonds, bond for bond, both because of the increased interest, and because of the fact that the terms of the new bonds are to be thirty years, while the existing bonds become payable on or before May 12, 1923. I recommend that this portion of the application be granted on condition that

the bonds for this purpose be not issued until applicant shall have sold the other bonds authorized by the order on the terms therein specified. Otherwise, applicant might be in the position of having exchanged its 5 per cent bonds for 6 per cent bonds without having sold any additional bonds.

Applicant desires to use the remaining \$40,000.00, face value of bonds as to which authority is asked as follows: Applicant desires to use bonds of the face value of \$18,000.00 to take up a portion of its indebtedness to the First National Bank of Covina, represented by one-day notes totaling \$18,000.00, and to use the remaining portion, viz, \$22,000.00, to make extensions and improvements as follows:

Applicant desires to spend a maximum amount of \$10,000.00 to construct an exchange at Puente. At present, as many as eight parties are on a single line in that territory. Furthermore, the population is increasing rapidly, so that good service to the people in this territory seems to demand that a new exchange be constructed in Puente. Applicant desires to spend a maximum of \$6,000.00 for new cables and other improvements to the Covina exchange plant, partly to substitute two or four-party lines for the present overcrowded lines and partly to take care of additional business. Applicant desires to spend a maximum of \$4,000.00 at Azusa to make additions to the plant in that city and for the same general purposes for which it desires to make expenditures at Covina. Finally, applicant desires to expend \$2,000.00 at Glendora for additions to the plant and for the same general purposes for which it desires to make expenditures at Covina and Azusa. The figures herein given are estimates of maximum expenditures, and applicant's secretary stated that the company would be satisfied if a total of \$22,000.00, face value, of bonds were authorized for those purposes. It seems clear that the expenditures contemplated by applicant are necessary for the extension and improvement of its service.

As hereinbefore stated, applicant has stock outstanding of the par value of \$83,900.00, bonds of the face value of \$40,700.00, with an additional \$7,000.00 as collateral, and notes of the face value of \$18,000.00. At the hearing the Commission made some investigation into the total value of applicant's property, which value applicant claims to be \$152,134.00. While the Commission does not in this proceeding pass upon this value, it is evident that there is sufficient margin between the value of the property and the securities and evidences of indebtedness at present outstanding to warrant the issue of bonds for which application is herein made, provided applicant's income is sufficient to justify such further issue. Referring to this point, it appears that in the year 1912, applicant had a total income of \$33,450.94, and that the total disbursements, including operating expenses, maintenance,

interest on notes and bonds, taxes and licenses, insurance and collection expenses were \$25,204.71, leaving a net earning amounting to \$8,246.23. Out of this amount applicant declared dividends totaling 6 per cent and amounting to \$4,908.00. During the present year applicant has declared two quarterly dividends of 2 per cent each, being on the basis of an annual 8 per cent dividend. I am convinced on this showing that this Commission may reasonably authorize the issue of the bonds as applied for, and recommend that the application be granted.

Applicant's secretary testified that applicant would not sell the bonds at less than 95 per cent of their face value. The community is, under ordinary circumstances, a prosperous one and applicant hopes to place its bonds to advantage in the community which it serves. Applicant also asks that the authority to sell stock heretofore given in Application No. 110 be continued so that applicant may sell either stocks or bonds, the total proceeds to be derived therefrom not to exceed the sum of \$40,000.00. Owing to the present stringency in the financial market and the result of the frost in destroying the citrus fruit crops in the vicinity in which the applicant operates, it may be that it will not be possible for applicant to realize the money which it needs from the sale of either stock or bonds at reasonable prices, at least for some time. Applicant does not desire to pledge bonds as collateral on further promissory notes if it can avoid doing so. However, if applicant finds that it is necessary to adopt this course to tide it over the intervening period until it can sell its bonds or stock advantageously, applicant may write a letter to the Commission stating the facts fully, including the terms of any proposed pledge, whereupon the Commission will, without further formal hearing, take such action as may seem necessary in the premises.

I recommend that the application be granted as hereinafter in the order indicated, and submit the following form of order:

ORDER.

Home Telephone Company of Covina having applied to the Railroad Commission for authority to issue bonds of the total face value of ninety thousand (\$90,000) dollars, said bonds to be payable on the first day of July, 1943, and to bear interest at the rate of six (6%) per cent per annum, payable semiannually, and secured by a mortgage or deed of trust upon all the property of the company, and also for authority to execute said mortgage, and further for authority to issue bonds of its first authorization in lieu of certain bonds of said authorization heretofore issued subsequent to March 23, 1912, and without the authorization of this Commission, and a public hearing having been held upon said application, and it appearing that the purposes for which said

bonds are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. Home Telephone Company of Covina is hereby authorized to issue its bonds of the face value of eighty-seven thousand and seven hundred (\$87,700) dollars, face value of principal, maturing the first day of January, 1943, bearing interest at the rate of six (6%) per cent per annum, payable semiannually on the first day of January and the first day of July of each year, said bonds to be of face values of one thousand (\$1,000) dollars, five hundred (\$500) dollars and one hundred (\$100) dollars, all in accordance with the terms of mortgage or trust deed hereby approved, to be made and executed by Home Telephone Company of Covina in substantially the form which is attached to the application herein as Exhibit "B," and Home Telephone Company of Covina is hereby authorized to execute said mortgage or deed of trust, on the following conditions and not otherwise, to wit:

(1) Home Telephone Company of Covina may issue said bonds of the face value of forty-seven thousand and seven hundred (\$47,700) dollars in exchange, bond for bond, for an equivalent number of bonds of its first authorization now outstanding, on condition that this authority shall not take effect until applicant shall have disposed or arranged to dispose of the remaining bonds herein authorized.

(2) Home Telephone Company of Covina is hereby authorized to issue its said bonds, of the face value of forty thousand (\$40,000) dollars, on the following conditions and for the following purposes only:

(a) Said bonds shall be sold so as to net said company not less than ninety-five (95%) per cent of the par value of the principal thereof, besides interest accrued thereon.

(b) The proceeds from the sale of said bonds shall be used only as follows:

(1) The proceeds from the sale of bonds of the face value of eighteen thousand (\$18,000) dollars shall be used only to discharge or refund applicant's one-day notes, now held by the First National Bank of Covina;

(2) The proceeds from the sale of bonds of the face value of twenty-two thousand (\$22,000) dollars shall be used only as follows:

(a) The proceeds from the sale of bonds not in excess of ten thousand (\$10,000) dollars, face value, shall be used to build an exchange at Puente, together with appurtenances;

(b) The proceeds from the sale of bonds not in excess of six thousand (\$6,000) dollars, face value, shall be used for additions to the present telephone exchange at Covina, including the labor incident to the installation of the same.

(c) The proceeds from the sale of bonds not in excess of four thousand (\$4,000) dollars, face value, shall be used in making additions to the plant of Azusa.

(d) The proceeds from the sale of bonds not in excess of two thousand (\$2,000) dollars, face value, shall be used to make additions and improvements at Glendora.

(3) Home Telephone Company of Covina, before it issues the bonds herein authorized shall file with this Commission a certified copy of executed mortgage or deed of trust substantially in the form annexed to the petition herein, and marked "Exhibit B."

2. Home Telephone Company of Covina is hereby authorized to issue its bonds of its first authorization as follows:

(a) Bonds of the face value of seven thousand (\$7,000) dollars in lieu of bonds of the same amount heretofore illegally issued, to be used as collateral on certain outstanding promissory notes.

(b) Bonds of the face value of seven hundred (\$700) dollars in lieu of bonds of the same amount heretofore illegally issued in exchange for a lot in Covina.

(c) Bonds of the face value of sixteen hundred (\$1,600) dollars in lieu of bonds of the same amount heretofore illegally sold subsequent to March 23, 1912.

3. Home Telephone Company of Covina shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale or disposal of all the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the first day of August, 1914, and the authority to issue stock heretofore given to said company by this Commission's order in Application No. 110 is hereby extended to and including said first day of August, 1914, on condition that the total face value of bonds and stock issued for the purpose of refunding or discharging said company's existing indebtedness and of making the extensions and improvements heretofore indicated shall not exceed the sum of forty thousand (\$40,000) dollars.

5. The authority hereby given to issue bonds shall not become effective until the fee specified in section 57 of the Public Utilities Act, as amended, has been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of August, 1913.

DECISION No. 897.

IN THE MATTER OF THE APPLICATION OF THE WESTERN ELECTRIC COMPANY TO SELL AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE THE TELEPHONE EXCHANGE PLANT LOCATED AT PORTOLA, PLUMAS COUNTY, CALIFORNIA.

Application No. 579.

Decided August 22, 1913.

Pillsbury, Madison & Sutro, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

SUPPLEMENTAL ORDER.

In the order rendered in this case, on page 2 of the opinion and order, the following language occurs:

“That The Pacific Telephone and Telegraph Company file with this Commission a stipulation that the rates now being charged to patrons at Portola are satisfactory and no advance in said rates is contemplated and no change other than the application of the one-party rate explained above.”

It is hereby ordered that said language be changed to read as follows:

That The Pacific Telephone and Telegraph Company file with this Commission a stipulation that it will give good and efficient service to patrons at Portola at its present rates with the addition of the one-party rate explained above.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of August, 1913.

DECISION No. 898.

TOWN OF MAYFIELD

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 410.*Decided August 22, 1913.*

Held, That public convenience does not require a grade crossing at the intersection of Stanford avenue with the track of defendant; that said crossing would be extremely dangerous, and application denied.

Held, That defendant be required to install suitable safety and warning devices at its crossing at Lincoln avenue in the town of Mayfield.

George D. Squires, for Southern Pacific Company.

W. A. Beasley, for Town of Mayfield.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application of the town of Mayfield for an order of this Commission authorizing the construction of Stanford avenue at grade across the tracks of Southern Pacific Company in the town of Mayfield. The town of Mayfield alleged that public convenience and necessity demanded the extension of Stanford avenue over and across the tracks of Southern Pacific Company to a connection with Alma avenue, which is parallel with and adjacent to Southern Pacific Company's right of way on the east. Southern Pacific Company denied that public convenience and necessity demanded the construction of this crossing and alleged that the town of Mayfield was sufficiently provided with the present crossing, which is located at Lincoln avenue.

After due notice, a hearing was held in Mayfield, Santa Clara County, California, on August 14, 1913, at which hearing all parties interested were duly represented. The testimony showed that Stanford avenue is a street running east and west through the town of Mayfield, extending from the westerly right of way limits of Southern Pacific Company to a county road which connects with the Quadrangle and buildings of Leland Stanford Junior University. The town of Mayfield is located entirely west of the easterly right of way line of Southern Pacific Company, except a small portion of the south part of the town, which would not be affected by the extension of Stanford avenue over and across the tracks of Southern Pacific Company.

The principal street of Mayfield is Lincoln avenue, which at present is constructed over and across the tracks of Southern Pacific Company to a connection with Alma street, which parallels and is adjacent to the Southern Pacific Company's right of way on the east. Alma street extends from Mayfield to Palo Alto, and is not improved. The tract east of that portion of Mayfield which would be accommodated by the extension of Stanford avenue over and across the tracks of Southern Pacific Company is platted, and is known as Seale Addition, but is not a part of the town of Mayfield, and the streets in this addition are not laid out in conformity with and would not connect with the streets of Mayfield if projected over and across the tracks and right of way of Southern Pacific Company.

Seale Addition is not thickly populated, in all there being about seventy houses constructed in this addition, which is adjacent and tributary to the city of Palo Alto.

The testimony showed that the principal benefit that would be derived if Stanford avenue was constructed over and across the tracks of Southern Pacific Company would be to people living in the Seale Addition in reaching the rear entrance to Leland Stanford Junior University and to the people living north of Lincoln avenue and east of the county road which extends from Mayfield to Palo Alto. The subdivision of Mayfield north of Lincoln avenue and east of the above mentioned county road is known as Evergreen Park, and is already tributary to Palo Alto and Leland Stanford Junior University by means of the above mentioned county road, which is the westerly limits of Evergreen Park.

The principal benefits that would be derived from the opening of this street across the tracks of Southern Pacific Company would then be to pedestrians and vehicles passing from the territory west of Mayfield through the northern part of the town of Mayfield and on to Palo Alto, and also to pedestrians and vehicles passing from the Seale Addition and the territory easterly thereof through Mayfield and on to the west. No particular benefit would be derived by the citizens of Mayfield.

People living in the Seale Addition and easterly thereof now have convenient access to Leland Stanford Junior University by means of Embarcadero road, which is the northerly limits of Seale Addition and the southerly limits of the city of Palo Alto, and the county road, which leads to the main entrance of the university.

Witnesses admitted that the opening of Stanford avenue would not benefit that section of Mayfield which is south of Lincoln avenue, and the principal benefit which would be derived seems to be for people who live either east or west of Mayfield in passing through the town.

The town of Mayfield at present is not increasing in population, and has not for the past four years, and apparently the necessity for a

crossing over the tracks of Southern Pacific Company at Stanford avenue will be no greater in the future than it is now.

The town of Mayfield on the south, west and north is at present occupying all of the land that it will ever be able to, for the reason that Leland Stanford Junior University has title to all of the adjacent land, which is held by trust deed and can not be sold nor disposed of. The only manner in which land can be used belonging to the university is by lease.

The town of Mayfield now has two routes which lead to Palo Alto. The first is by way of Lincoln avenue, which is the principal street of Mayfield and extends over and across the tracks of Southern Pacific Company to Alma street, and thence by Alma street to Palo Alto. The second is by way of the county road, which is now being improved by the State, and which also leads to the main entrance of Leland Stanford Junior University.

The tracks of Southern Pacific Company at this point are on a heavy grade, which extends from near Lincoln avenue to the bridge across San Francisquito Creek north of Palo Alto.

Trains which do not stop at Mayfield pass in both directions at a very high rate of speed, and at present there is a movement of approximately seventy-five trains per day over this track. North of Stanford avenue and west of Southern Pacific Company's tracks are several large eucalyptus trees which obscure the view and would render this a dangerous crossing.

From the testimony and an inspection, I am of the opinion that public convenience and necessity do not demand the installation of this crossing, and that Lincoln avenue, which is now open across the tracks of Southern Pacific Company, will sufficiently serve the town of Mayfield and adjoining territory. I am of the opinion that this Commission should not grant application for grade crossings of highways over railroad tracks where there is such a heavy movement of trains as obtain at this point, unless it can be demonstrated that public convenience and necessity absolutely demand same, and that when application is granted under the above conditions the crossing should be safeguarded. The crossing of Southern Pacific Company's tracks at Lincoln avenue is at present dangerous. The view is obstructed by large eucalyptus trees, freight house and tool house, and I recommend that Southern Pacific Company have the tool house removed to some other location where same will not obstruct the view of approaching trains, and that the gates and trees be removed which are near the intersection of Lincoln avenue and Alma street. Also, I recommend that Southern Pacific Company protect the crossing at Lincoln avenue by installing an automatic bell alarm with a wigwag signal or crossing gates, and

that if Southern Pacific Company does not comply with the above recommendation within a reasonable time I then recommend that the Commission take the matter of safeguarding Lincoln avenue up on its own initiative.

I recommend that the application in the above entitled matter be denied and submit herewith the following form of order:

ORDER.

The town of Mayfield, having filed with this Commission its application for an order granting permission to construct Stanford avenue at grade across the tracks of Southern Pacific Company, and a public hearing having been held on said application and the Commission finding the public convenience and necessity will not be subverted by the construction of said crossing at grade and that if said crossing is constructed at grade same will be dangerous,

It is hereby ordered that said application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of August, 1913.

DECISION No. 899.

IN THE MATTER OF THE APPLICATION OF THE MIDWAY GAS COMPANY FOR AN ORDER CONFIRMING THE REFUNDING OF CERTAIN NOTES FOR THE AGGREGATE PRINCIPAL AMOUNT OF SEVENTY-FIVE THOUSAND DOLLARS HERETOFORE EXECUTED BY IT, PAYABLE WITHIN TWELVE MONTHS FROM THE DATE OF THE EXECUTION THEREOF, BY THE ISSUANCE OF NEW NOTES, PAYABLE WITHIN TWELVE MONTHS FROM THE DATE OF THE EXECUTION THEREOF.

Application No. 702.

Decided August 22, 1913.

Held. Applicant permitted to issue notes to its stockholders in the sum of \$210,000.00, part of proceeds of said notes to be used to refund three notes in the aggregate amount of \$75,000.00 with interest, and the balance in the conduct of applicant's business and in betterments to plant.

Cyrus Pierce, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This application came on regularly for hearing in San Francisco, California, Friday, August 22, 1913.

For the financial and general condition of applicant, reference is made to the opinion and order in Application No. 202, Decision No. 486, at the hearing of which application Commissioner Edgerton made a most exhaustive study and analysis of all the circumstances and conditions surrounding applicant's activities.

The necessity for the present application arises from the fact that on the twenty-seventh day of January, 1913, applicant executed to the Bank of California, a corporation, three promissory notes, each for \$25,000.00, one due in four months without interest, and the remaining two due in five and six months, respectively, with interest at 6 per cent; that the consideration received by applicant for said promissory notes was the sum of \$74,500.00, the note due in four months without interest having been discounted in the sum of \$500.00; that said sum was expended by applicant on its plant in construction work; that said promissory notes executed by applicant to said Bank of California have been refunded as follows:

That for the purpose of paying indebtedness due from applicant, including principal and accrued interest upon said promissory notes, and obtaining money for construction purposes and conducting its business, applicant heretofore, to wit, on or about the fifteenth day of May, 1913, borrowed from each of its stockholders a sum equal to \$7.00 per share of the capital stock held by them respectively, and desires now to execute to said stockholders respectively its promissory notes for the amount so borrowed, such notes to bear date of May 15, 1913, payable within one year, to wit, on the first day of May, 1914, bearing interest at the rate of 6 per cent per annum; that the sum so advanced by stockholders amounted to \$210,000.00; that said promissory notes to be executed to said stockholders are to be unsecured; that applicant has paid said promissory notes executed by it to the Bank of California and has used for that purpose a portion of the sums so borrowed from its stockholders, to wit, the sum of \$76,387.45.

Applicant asks that the transactions above described, resulting in the refunding of the said promissory notes executed to the Bank of California for the aggregate principal amount of \$75,000.00, be approved.

I find as a fact that the results which applicant desired to obtain by these proceedings were necessary in the conduct of its business and that the action taken to secure those results was proper and legal under the provisions of section 52 (b) of the Public Utilities Act, as such

notes are to be payable within a period of one year; and I recommend that an order be issued by this Commission approving of the refunding of the notes amounting, in the aggregate, to \$75,000.00, given to the Bank of California, as aforesaid, and the issuance of said notes to stockholders.

I recommend the following order:

ORDER.

Whereas the Midway Gas Company, a corporation, did, on January 27, 1913, execute to the Bank of California, a corporation, three several promissory notes each in the sum of \$25,000.00, due in four, five and six months, respectively, the note due in four months being without interest and those due in five and six months bearing interest, respectively, at 6 per cent; and

Whereas the Midway Gas Company, a corporation, has since borrowed from each of its stockholders a sum amounting to \$7.00 per share on each stockholder's holding, the amount so borrowed aggregating \$210,000.00, and from the money so realized has paid the aforesaid notes to the Bank of California in the sum of \$75,000.00, with interest, and desires to execute notes to each of its stockholders respectively for the amount so borrowed from said stockholders' said notes, to be dated May 15, 1913, and to become due within one year, to wit, May 1, 1914; and

Whereas the Commission has found the transactions aforesaid necessary and proper in the conduct of applicant's business and within the provisions of section 52 (b) of the Public Utilities Act;

It is hereby ordered that applicant, the Midway Gas Company, be and it is hereby granted permission to issue notes bearing date of May 15, 1913, and to become due May 1, 1914, to each of its stockholders for the amounts paid by said stockholders, as hereinbefore set forth, the aggregate of such notes to be \$210,000.00, with interest at not to exceed 6 per cent.

It is hereby further ordered that this permission to issue notes shall apply only to notes issued on or before the first day of October, 1913, and that the aggregate of such notes so issued shall not exceed the sum aforesaid, \$210,000.00; this order to become effective upon payment of the regular fee as provided in section 57 of the Public Utilities Act as amended.

It is further ordered that applicant keep regular books of accounts in the manner prescribed by the Commission, and that it shall report to the Commission concerning the issue of said notes and the disposition of the proceeds thereof, in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of August, 1913.

DECISION No. 900.

IN THE MATTER OF THE APPLICATION OF COUNTY OF
SAN BERNARDINO FOR PERMISSION TO CONSTRUCT A
CROSSING OVER THE TRACKS AND DEPOT GROUNDS
OF ATCHISON, TOPEKA AND SANTA FE RAILWAY COM-
PANY AT CUCAMONGA.

Application No. 659.

Decided August 22, 1913.

Held, That a grade crossing at the intersection of Reid street with the tracks of the Santa Fe Railway Company in the town of Cucamonga would be unnecessary and dangerous, and is therefore denied.

R. E. Hodge, for County of San Bernardino.

M. W. Reed, for Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to construct and maintain a public highway at grade across the depot grounds and tracks of the Atchison, Topeka and Santa Fe Railway Company at Cucamonga, San Bernardino County, California. A public hearing was held in the city of San Bernardino on August 20, 1913.

The crossing is more particularly described as follows: 30 feet on each side of a line extending north and south and intersecting the main line of the Atchison, Topeka and Santa Fe Railway Company on the station grounds at Cucamonga at Engineer's Station 867+63.72.

A personal inspection, together with the evidence at the hearing, shows the following facts: The street which the county asks authority to open is named Reid street. It is proposed to extend said street in a north and south direction over the tracks and depot grounds of the Atchison, Topeka and Santa Fe Railway Company, hereinafter called the Santa Fe, so as to connect Main street, lying to the north of the

Santa Fe's tracks and parallel therewith with Eighth street, lying to the south of said tracks and also parallel therewith. The purpose of the proposed crossing is to enable certain farmers living southeast of the proposed crossing to drive directly over the railway tracks to certain weighing scales located in Reid street north of the railway right of way, instead of being compelled to drive one block further west on Eighth street, thence north along Archibald avenue across the railway tracks, and thence east on Main street and south on Reid street to the scales. By the present route the distance is some 2,000 feet longer than it would be if Reid street were cut through over the railway tracks and grounds. No one except these farmers would be inconvenienced if the proposed crossing were made.

At the point of proposed crossing the Santa Fe has one main line track and two sidings, one to the north, and one to the south thereof. Numerous main line trains, both passenger and freight, pass this point each day. The proposed point of crossing is just west of the point of a switch from the main line to one of the sidings. The view from the approaches of the proposed crossing is obscured in each direction. To the east, north of the right of way, is a large packing-house; to the west, north of the right of way, are several large packing-houses; to the south are a storehouse and the depot to the west of the proposed crossing and several storehouses to the east. It is evident that the crossing would be a dangerous one because of obstructions to the view.

The witnesses both for the county and for the railway company agreed that the crossing would be dangerous. The witnesses for the county testified that after a more careful investigation they had concluded that the application probably ought to be denied. I am of the same opinion and submit the following form or order:

ORDER.

The county of San Bernardino having applied for an order authorizing the extension of Reid street in Cucamonga over the tracks of the Atchison, Topeka and Santa Fe Railway Company, and a public hearing having been held on said application, and it appearing that said crossing would be a dangerous crossing and that there is no real need for it,

It is hereby ordered that said application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of August, 1913.

DECISION No. 901.

BOARD OF TRUSTEES OF THE TOWN OF FAIRFIELD
vs.
SOUTHERN PACIFIC COMPANY AND TOWN OF SUISUN CITY.

Case No. 263.*Decided August 22, 1913.*

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

Town of Suisun City having on August 18, 1913, filed an application for a rehearing and modification of the order of the Commission made in this case on July 29, 1913, and it appearing to the Commission that prior to making the order in this case the Commission gave careful consideration to each of the matters set forth in said application for rehearing, and it appearing to the Commission that there is no good cause presented for a rehearing in this case,

It is hereby ordered that the application for rehearing be and the same hereby is denied.

By order of the Railroad Commission.

Dated at San Francisco, California, this 22d day of August, 1913.

DECISION No. 902.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF
SAN BERNARDINO FOR AN ORDER AUTHORIZING THE
REMOVAL OF A GRADE CROSSING OF THE TRACKS OF
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY WITH A PUBLIC HIGHWAY FROM ONE POINT
TO ANOTHER, NORTH OF ORO GRANDE.

Application No. 660.*Decided August 22, 1913.*

Held, Applicant permitted to abandon the present grade crossing of its county highway with the tracks of the Santa Fe Railway Company, one half mile north of Oro Grande, and to establish said crossing at a more preferable location; the Santa Fe Railway Company to install necessary safety devices.

R. E. Hodge, for County of San Bernardino.

M. W. Reed, for Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

The present county highway from San Bernardino to Barstow, running in a general north and south direction, crosses the main line track of the Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as the Santa Fe, at grade at Engineer's Station 1499+25.7, about one half mile north of the Santa Fe station at Oro Grande. The approach to the crossing from the west is at a grade variously estimated at between 7 and 10 per cent. Both to the north and the south of the point of crossing the Santa Fe's tracks are on a curve through broken country, so that there is some obstruction to the view. The representatives of the county and the acting division superintendent of the Santa Fe agreed that the present crossing is dangerous and that the proposed crossing would be considerably safer.

The county now asks authority to abandon this crossing and to establish in lieu thereof a new crossing at grade at a point north some 950 feet at Engineer's Station 1608+75.7. It is proposed to continue the county road along the west side of the Santa Fe's right of way and then to make a crossing at right angles at the point indicated. The grade of the approach to the crossing over the tracks at this point on both sides would be very light.

That the present crossing should be abandoned seems clear. The remaining important question is whether this crossing should be superseded by another grade crossing, as prayed for by the county, or by an undergrade crossing. It appears that considerable expense would be incurred on the east side of the Santa Fe's tracks if an undergrade crossing were established and that because of the right angle in the highway at the point of crossing if at grade all teams and automobiles will have to slow down before crossing. I am satisfied that conditions and traffic are not such as to demand an undergrade crossing at the present time.

I am convinced, however, that if a grade crossing is authorized as prayed for, an effective safety device should be installed at the point of the new crossing. An average of twenty trains per day, both passenger and freight, pass this point each day. The passenger trains attain a maximum speed of from thirty to fifty miles per hour. There is some considerable travel over this road, though the amount of travel was not definitely established. An automatic wigwag would serve the purpose. While it is clear that such signal device should be maintained by the railway company, it is more difficult to decide concerning the

initial cost thereof. On the one hand, it is a general rule followed by the Commission, unless good reasons appear to the contrary, that the cost of installing safety devices at railroad crossings shall be borne by the applicant. On the other hand, the present crossing is dangerous, and this Commission has the power to call upon the Santa Fe to install a safety device and thereafter to maintain it at the railway company's sole expense. Under all the circumstances of this proceeding, I find that a sharing of the expense of installation, half and half between the railway company and the county, would be a fair and just division of the burden, and I shall recommend that such division be made.

I submit the following form of order:

ORDER.

The county of San Bernardino having filed with the Railroad Commission its application for an order authorizing the abandonment of the existing public highway crossing, at grade, over the tracks of the Atchison, Topeka and Santa Fe Railway Company at Engineer's Station No. 1499+25.7 and the substitution therefor of a new crossing, at grade, at Engineer's Station No. 1608+75.7, north of Oro Grande, and a public hearing having been held on said application, and the Railroad Commission finding that the present crossing is dangerous, that the proposed new crossing, in case the safety device hereinafter referred to is installed, will largely remove the danger, and that an order for the installation of an underground crossing would not be warranted at present,

It is hereby ordered that said application be and the same is hereby granted on the following conditions and not otherwise, to wit:

1. The entire expense of constructing the crossing at grade, apart from the safety device hereinafter referred to, shall be borne by the county of San Bernardino. Said crossing shall be constructed of a width not less than twenty-four feet, and shall be ballasted with first-class stone or gravel ballast to a depth of not less than six inches.

2. The expense of maintaining the crossing up to within two feet on each side of the rails of the Atchison, Topeka and Santa Fe Railway Company hereafter in good and first-class condition for the safe and convenient use of the public shall be borne by the county of San Bernardino, and the Atchison, Topeka and Santa Fe Railway Company shall maintain said crossing across its tracks and within two feet on each side thereof.

3. Atchison, Topeka and Santa Fe Railway Company shall construct a first-class, standard automatic flagman, which, upon the approach of a train, shall disclose a red light, said light to have the motion of an inverted pendulum, which flagman shall, at the same time, automatically sound a warning bell. Attached to the support of this device shall be a first-class, standard highway crossing sign, marked with appropriate

black letters, not less than six inches in height, upon a white background. The county of San Bernardino shall reimburse to Atchison, Topeka and Santa Fe Railway Company one half the expense of the installation of such flagman. The flagman shall thereafter be maintained in good, first-class condition by the Atchison, Topeka and Santa Fe Railway Company.

4. The Railroad Commission reserves the right to make such further orders relative to the later construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demands such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of August, 1913.

DECISION No. 903.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO
CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN
ORDER AUTHORIZING THE ISSUANCE OF BONDS OF
THE FACE VALUE OF SIX HUNDRED AND THIRTY-NINE
THOUSAND DOLLARS.

Application No. 590.

Decided August 22, 1913.

Second supplemental order permitting applicant to issue additional bonds of the face value of \$33,000.00, proceeds to be used in part payment of capital expenditures incurred during the month of July, 1913.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SECOND SUPPLEMENTAL OPINION.

This is a supplemental application for authority to issue bonds of the face value of \$33,000.00.

On June 30, 1913, this Commission rendered its opinion and order in the above entitled proceeding, authorizing applicant to issue certain bonds, including bonds of the face value of \$459,000.00 on expenditures to be incurred during the year 1913, subsequent to April 30, 1913. On August 7, 1913, this Commission rendered its supplemental opinion

and order, authorizing the issue of \$102,000.00, face value, of said bonds on capital expenditures made during May and June, 1913. The present supplemental application is filed for the purpose of securing this Commission's authorization for the issue of an additional \$33,000.00, face value, of said bonds, for capital expenditures incurred during the month of July, 1913.

A summary of the estimated expenditures during the year 1913, subsequent to June 30, 1913, of the actual expenditures incurred during July, 1913, and of the balance to be expended in 1913, is attached to the application and reads as follows:

SUMMARY.

| | Balance to be expended as of June 30, 1913. | Expenditures in July, 1913. | Balance to be expended. |
|--|---|--------------------------------|----------------------------|
| 1. Steam power plant equipment..... | \$58,433 97 | \$774 43 | \$57,669 54 |
| 2. Electric distribution system..... | 114,757 85 | 24,044 99 | 90,712 86 |
| 3. Gas plant buildings and general structures | 6,078 66 | 2,815 44 | 3,263 22 |
| 4. Gas generators..... | 19,515 81 | 2,340 74 | 17,175 07 |
| 5. Purification appliances..... | 13,138 58 | 699 28 | 12,439 30 |
| 6. Water gas sets and accessories..... | 7,000 00 | ----- | 7,000 00 |
| 7. Accessory equipment at works..... | 20,851 23 | 2,294 41 | 18,556 82 |
| 8. Gas distribution..... | 152,633 57 | 2,463 02 | 150,170 55 |
| 9. Gas services | 48,989 26 | 4,444 00 | 44,545 26 |
| 10. Gas meters..... | 7,511 66 | 2,883 99 | 4,627 67 |
| 11. Miscellaneous distribution equip- ment | 9,743 18 | 113 73 | 9,629 45 |
| 12. General structures..... | 550 67 | 13 50 | 537 17 |
| 13. General shop equipment..... | 4,028 61 | 330 99 | 3,707 62 |
| 14. Contingencies | 5,866 31 | 2,171 85 | 3,694 46 |
| | \$169,109 36 | \$45,350 37 | \$123,728 99 |

Under the provisions of applicant's trust deed or mortgage, it is entitled to receive from the trustee bonds of the face value of 75 per cent of proper capital expenditures. It is evident that the amount of bonds now asked for, being \$33,000.00, is not in excess of 75 per cent of the sum of \$45,380.37, being the capital expenditures during July, 1913.

I find that the purposes for which expenditures were incurred during July, 1913, come within the general purposes specified in this Commission's opinion and order dated June 30, 1913. Applicant alleges that it expects to be able to sell its bonds for not less than 85 per cent of their face value.

I recommend that the supplemental application be granted, and submit herewith the following form of second supplemental order:

SECOND SUPPLEMENTAL ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for the consent of the Commission to the

issuance by said company of bonds of the face value of thirty-three thousand dollars (\$33,000), said bonds to be executed within the general authorization heretofore given by this Commission's order in the above entitled proceeding, dated June 30, 1913, said bonds to be payable on the first day of March, 1939, and to bear interest at the rate of five (5) per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all the property of the company; and the Commission finding that the moneys to be procured by the issue of said bonds are necessary to and reasonably required by said company for the discharge and refunding of obligations heretofore incurred for proper capital expenditures, and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego Consolidated Gas and Electric Company of thirty-three thousand dollars (\$33,000), face value, of bonds of said company, bearing numbers 3912 to 3944, inclusive, maturing the first day of March, 1939, redeemable on March 1, 1914, or on any interest date thereafter, at par, accrued interest and a premium of five per cent on the principal thereof, and to bear interest at five per cent per annum, payable semiannually, under and in pursuance of the terms of the deed of trust or mortgage heretofore and on the first day of March, 1909, made and executed by said San Diego Consolidated Gas and Electric Company to Harris Trust and Savings Bank and Los Angeles Trust Company, now known as the Los Angeles Trust and Savings Bank, as trustees, upon the conditions following and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said bonds hereby authorized so as to net said company not less than 85 per cent of the par value of the principal thereof, besides interest accrued thereon.

2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds only for the purpose of discharging and refunding indebtedness incurred for capital expenditures made during the month of July, 1913, as those expenditures are set out in the opinion which precedes this order.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General

Order No. 24, which order, in so far as applicable, is made a part of this order.

4. San Diego Consolidated Gas and Electric Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustees under its said trust deed, on which statements or certificates it expects to receive from the trustees the

5. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the thirtieth day of September, 1914.

The foregoing second supplemental opinion and order are hereby approved and ordered filed as the second supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of August, 1913.

Decisions Nos. 904, 905 and 906, grade crossings; not printed. See end of volume.

DECISION No. 907.

W. H. FRAZINE, INDIVIDUALLY AND AS CHAIRMAN OF
CITIZENS' COMMITTEE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY.

Case No. 422.

Decided August 25, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER APPROVING STATION BUILDING PLANS.

The Atchison, Topeka and Santa Fe Railway Company, a corporation, having on August 21, 1913, filed with the Commission plans and specifications for proposed station building to be constructed at Empire, Stanislaus County, California, said plans having been filed in accordance with the order of the Commission issued in the above entitled matter on August 11, 1913, and it appearing to the Commission that the plans and specifications filed are for an adequate and sufficient station building to be constructed at Empire, Stanislaus County, California, and that the said plans and specifications are satisfactory and in accordance with the Commission's order of August 11, 1913,

It is hereby ordered that the plans and specifications for said station building, as filed, be and the same are hereby approved.

Dated at San Francisco, California, this 25th day of August, 1913.

DECISION No. 908.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE, SELL AND DELIVER TO THE AMOUNT OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS ITS BONDS BEARING INTEREST AT THE RATE OF FIVE PER CENT PER ANNUM, DUE NOVEMBER 1, 1939, WHICH BONDS ARE TO BE ISSUED UNDER AND SECURED BY TRUST INDENTURE DATED NOVEMBER 1, 1909, EXECUTED BY SAID SOUTHERN CALIFORNIA EDISON COMPANY TO HARRIS TRUST AND SAVINGS BANK AND LOS ANGELES TRUST AND SAVINGS BANK, TRUSTEES.

Application No. 350.

Decided August 25, 1913.

Applicant permitted to pledge a portion of certain bonds heretofore authorized as security for notes; the proceeds of said notes to be used solely for purposes specified in the preceding order in this case dated January 27, 1913.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Commission having on January 27, 1913, made its order in this proceeding authorizing the sale by applicant, upon the conditions specified in said order, of its five per cent bonds of the face value of \$2,500,000.00, said bonds being numbered 15373 to 17872, both inclusive;

And the Commission having on June 20, 1913, made its first supplemental order in this proceeding permitting applicant to issue its five per cent bonds numbers 16022 to 16521, both inclusive, as collateral for loans, said bonds to be pledged for not less than 80 per cent of face value thereof, and the money obtained from the pledge of the bonds to be used only for the purposes specified in this Commission's said order of January 27, 1913; and applicant having requested permission to issue bonds numbers 16522 to 16921, both inclusive, upon the same conditions as were specified as to the issue permitted by the supplemental order of June 20, 1913,

It is hereby ordered that Southern California Edison Company be and it hereby is authorized to issue and hypothecate its 5 per cent bonds numbers 16522 to 16921, both inclusive, upon the following conditions and not otherwise, to wit:

1. Said bonds shall be pledged for not less than 80 per cent of the face value thereof.

2. The money borrowed upon the pledge of said bonds shall be borrowed for a period not exceeding six months, and at a rate of interest not exceeding 7 per cent per annum.

3. The money obtained from the pledge of said bonds shall be used solely for the purposes specified in this Commission's order heretofore made in this proceeding on January 27, 1913.

4. As and when any of the moneys borrowed by the pledge of said bonds are repaid the bonds which have been pledged as collateral security therefor shall be returned to the treasury of applicant, to be reissued in accordance with, and under the provisions of, this Commission's said order of January 27, 1913, said order in all other respects remaining in full force and effect.

By order of the Railroad Commission.

Dated at San Francisco, California, this 25th day of August, 1913.

DECISION No. 909.

FRED GUNTHER COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 404.

Decided August 25, 1913.

Complainant alleges unreasonable rates on mineral water, carload lots, between Williams and Bakersfield, California; also that defendant collected, on six certain shipments, overweight to the total amount of 6,600 pounds.

Held, Parties to this action agreed as to a method of determining the correct weight of these shipments, and defendant agrees to refund if overweight has been collected, and there being no discrimination shown as to the rates complained of, complaint is dismissed.

E. J. Emmons, for Plaintiff.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This case, upon complaint and answer, came on for hearing August 15, 1913, at ten o'clock a. m.

In support of pleadings, plaintiff showed that it is a corporation

doing business as a wholesale liquor dealer in the city of Bakersfield, Kern County, California; that in the conduct of such business it has shipped as freight mineral water in carloads from the town of Williams, California, to said city of Bakersfield over the lines of defendant, Southern Pacific Company, said shipments of mineral water being described as to weight, date of shipment, rate, etc., as follows:

| Date. | E. B. number. | Car number. | Billed weight. | Rate. | Collected. |
|------------------------|---------------|-------------|----------------|--------|------------|
| January 13, 1912..... | 1784 | 81516 | 37,600 | \$8 00 | \$150 40 |
| April 16, 1912..... | 15637 | 3149 | 37,000 | 8 00 | 148 00 |
| July 12, 1912..... | 27800 | 83731 | 37,000 | 8 00 | 148 00 |
| October 26, 1912..... | 42905 | 60158 | 37,000 | 8 00 | 148 00 |
| February 19, 1913..... | 7396 | 80617 | 37,000 | 8 00 | 148 00 |
| May 21, 1913..... | 22369 | 11350 | 37,000 | 8 00 | 148 00 |
| Totals | | | 222,600 | | \$890 40 |

The amount set forth under the title "Collected \$890.40" is the amount paid by plaintiff to defendant, Southern Pacific Company, on said shipments, being a rate of \$8.00 per ton.

This rate of \$8.00 per ton on mineral water plaintiff alleges is unreasonable and discriminatory. Plaintiff bases its allegation that this rate is discriminatory upon the following comparison: The distance from Williams, the point of origin of said shipments, to Bakersfield is 340 miles. The distance from Shasta to Bakersfield is 517 miles, and the rate on mineral water from Shasta to Bakersfield, carloads, is \$5.00 per ton.

For second cause of action, plaintiff alleges that defendant has collected, at the times and on the shipments named above, for overweight and that the correct weight of said shipments is as follows:

| Date. | E. B. number. | Car number. | Weight. |
|------------------------|---------------|-------------|---------|
| January 13, 1912..... | 1784 | 81516 | 36,000 |
| April 12, 1912..... | 15637 | 3149 | 36,000 |
| July 12, 1912..... | 27800 | 83731 | 36,000 |
| October 26, 1912..... | 42905 | 60158 | 36,000 |
| February 19, 1913..... | 7396 | 80617 | 36,000 |
| May 21, 1913..... | 22369 | 11350 | 36,000 |
| Total | | | 216,000 |

Considerable testimony was introduced as to the weight of the shipments, which need not be considered in this opinion and order, as it was finally stipulated by counsel for plaintiff and defendant that the superintendent of the Pacific Weighing Bureau, or a representative of that bureau, should meet with plaintiff, Mr. Gunther, and weigh as many cases of this mineral water as would enable them to arrive at a satisfactory average weight, and upon the application of that weight to

these shipments defendant stipulated to repay to plaintiff any overcharge found to have been collected. The second cause of action is, therefore, eliminated.

For the third cause of action plaintiff alleges that the rates of the defendant on mineral water from Williams, California, to Bakersfield, California, are unreasonable, excessive and discriminatory. The rates from Shasta, California, to Bakersfield, California, on mineral water, \$5.00 per ton in carloads, as compared with the rate of \$8.00 per ton on mineral water from Williams, California, to Bakersfield, California, were offered as evidence that the rate from Williams, California, to Bakersfield, California, on mineral water is excessive, extortionate and discriminatory. The class rates from San Francisco to Bakersfield, on the class in which mineral water is placed, were also put in evidence, but no comparisons were offered by plaintiff on shipments which could be considered as substantially the same under the circumstances and conditions as to distance, value of product, character of container in which the commodity was shipped, etc.

In justification of its rates, defendant showed that the mineral water in question from Williams to Bakersfield, California, was a high priced commodity, known as Bartlett water, and that it was only shipped in cases of 50 bottles each; that a carload was valued at approximately \$1,000.00; that the mineral water shipped from Shasta was a lower priced commodity shipped in tank cars—lower priced during the movement from Shasta to Bakersfield because it is shipped in tank cars—and that the expense of bottling and casing must be done at Bakersfield; that the rate on Shasta water bottled and cased, from Shasta to Bakersfield, is \$10.30 per ton, and that, owing to these differing circumstances and conditions under which shipments of mineral water are made respectively from Williams and Shasta, California, to Bakersfield, California, defendant claims that the rate of \$8.00 per ton from Williams, California, to Bakersfield, California, on mineral water in cases is not discriminatory.

With this contention of defendant we agree. As to the rate being unreasonable and extortionate, it is well known that this Commission is engaged in taking the physical valuation of transportation properties in this State to the end that, after necessary investigation, the reasonableness of all rates may be passed upon. That work has not proceeded far enough to be applied to this situation, in consequence of which the Commission must depend upon what it can learn by comparing rates for similar distances under similar circumstances.

In our judgment, plaintiff has failed to show that this rate is an unreasonable or extortionate rate, and, while not declaring in this opinion and order that the rate in question is a reasonable rate, the Commission fails to find that it has been proven unreasonable.

The second cause for action having been eliminated by stipulation, I find as a fact that plaintiff has not proven the allegations in the first and third causes for complaint, and that such complaints should be dismissed. I recommend the following order:

ORDER.

Whereas Fred Gunther Company, of Bakersfield, California, has filed a complaint with this Commission against the Southern Pacific Company, alleging that rates charged and collected by said Southern Pacific Company on mineral water in cases from Williams, California, to Bakersfield, California, are unreasonable and extortionate, as first cause of action, that overweight was collected, as second cause of action, and that said rates were discriminatory as compared with rates on mineral water from Shasta, California, to Bakersfield, California; and

Whereas a hearing has been regularly had, and the second cause of action eliminated by stipulation; and

Whereas the Commission finds that plaintiff has failed to establish that said rates on mineral water were discriminatory or unreasonable and extortionate,

It is hereby ordered that the complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of August, 1913.

DECISION No. 910.

L. C. ROSS

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 405.

Decided August 25, 1913.

E. J. Emmons, for Complainant.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The Commission decided in Case No. 283, being the case of *Scott, Magner & Miller vs. Western Pacific Company*, that, inasmuch as the constitution of the State provided, prior to October 10, 1911, that the rates established by this Commission should be deemed conclusively

just and reasonable, that no reparation could be awarded upon shipments moving prior to October 10, 1911, and the charges collected therefor prior to that time were proper when the right to reparation was based solely upon the ground that the rates collected were unreasonable or discriminatory.

As it appears in the present case that the Commission had fixed rates prior to October 10, 1911, covering the shipments moving in this case, and that the tariff rates were applied upon the movements in question, this case falls clearly within the conclusions announced by the Commission in Case No. 283.

Complainant, therefore, has not justified the claim for reparation under the law, and I recommend that the complaint be dismissed, and it is so ordered.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of August, 1913.

Decision No. 911, grade crossing; not printed. See end of volume.

DECISION No. 912.

IN THE MATTER OF THE APPLICATION OF FRESNO-HANFORD AND SUMMIT LAKE INTERURBAN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 374.

Decided August 30, 1913.

Applicant, in amended application, asks authorization of Commission to issue \$358,000.00 face value of bonds, proceeds to be used in building the first unit of its road from Fresno to Selma, California.

Held, Application granted, provided applicant shall deposit with Mr. J. H. Summers substantially of its promotion stock of the par value of \$1,250,000.00 heretofore issued, and that no part of said stock shall be sold to the public until the electric road between Fresno and Selma shall have been completed and in operation.

H. P. Brown, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The Fresno-Hanford and Summit Lake Interurban Railway Company was organized in 1908 with a capital stock of \$1,250,000.00. This

stock was all issued and distributed among the promoters of the proposition principally without anything being paid therefor other than the services rendered in promotion, although a small amount of the stock was sold for cash and the promoters sold some of their stock. A bond issue was thereafter authorized of \$1,250,000.00, of which issue approximately \$98,000.00 were sold. So that at the time the first application was made under the Public Utilities Act to this Commission for authority to issue bonds there were bonds outstanding of the former authorized issue in the sum of approximately \$98,000.00.

The first application under the present Public Utilities Act was filed January 23, 1913, and the hearing thereon was held at Fresno, January 31, 1913. In the mean time the \$98,000.00, or such sum as had been received for the sale of \$98,000.00 in bonds, had been expended in purchasing rights of way, putting up grades, building bridges, culverts, promotion expenses, etc., the value of which was stated by applicant at about \$209,000.00. Applicant was advised after the first hearing that the Commission could not authorize the issue of bonds prayed for and was told what it would be necessary to do to place itself in position to justify the Commission in authorizing any bond issue.

At the time the first application was made, applicant proposed to construct an electric railroad running from the terminal in the city of Fresno easterly to the town of Centerville in Fresno County and south-easterly to the town of Kingsburg, Fresno County, with a total mileage, single track, of forty miles. Later applicant amended its petition and asked for authority to issue \$600,000.00 worth of bonds, but upon the hearing of said application applicant was again advised that the Commission could not authorize said issue of bonds for the reason that the value of the road when completed plus the present valuation of rights of way, bridges, culverts, and such expenses as could properly be capitalized would not justify said issue. Various hearings were held by the Commission and conferences with the promoters of the enterprise were also held, which finally resulted in an agreement upon the part of applicant to ask for a bond issue with the proceeds of which it would build the first unit of its road, namely, from Fresno to Selma, a distance of approximately twenty miles, including necessary side tracks, spurs, etc.

At the adjourned hearing of the application held on August 7, 1913, applicant testified that it had complied with the conditions theretofore set forth by the Commission as follows:

First—That it has opened and is keeping a regular set of books.

Second—That its franchises have been renewed and are properly held in the name of the corporation.

Third—That it has renewed its titles to its rights of way.

Fourth - That it has approved by proper action of its directors this application to the Railroad Commission, and that such approval was properly recorded in the minutes of the meetings of its directors.

At this hearing on August 7th, applicant presented by testimony the following statement of facts to the Commission:

That it proposes to build the first unit of about twenty miles of its road at an estimated cost of \$357,820. That the present value of its property is \$117,236.48, made up as follows:

| | |
|------------------------------------|---------------------|
| Rights of way ----- | \$49,765 00 |
| Franchises ----- | 1,950 00 |
| Culverts ----- | 4,543 10 |
| Concrete work ----- | 1,242 00 |
| Excavation and embankment ----- | 13,385 40 |
| Cash expenditures ----- | 41,614 62 |
| Cash advanced W. D. Mitchell ----- | 3,005 91 |
| Cash advanced W. M. Giffin ----- | 1,730 45 |
| Total ----- | \$117,236 48 |

The former chief engineer of the Railroad Commission, Mr. R. A. Thompson, had investigated the value of applicant's property and had reported it to the Commission as between ninety and one hundred thousand dollars. This valuation of Mr. Thompson comprehended the full length of the proposed road. Our present chief engineer, Mr. W. C. Earle, made an examination and reported to the Commission that the present value of the property is \$89,233.98. In arriving at this valuation Mr. Earle had declined to accept the multiple of two used by the applicant as to the value of its rights of way and had deducted the amount which applicant had placed in its valuation as the value of franchises, thereby reducing the valuation furnished by applicant from a little over \$117,000.00 to about \$89,000.00, as stated above. Mr. Earle agrees with applicant as to the probable cost of building the road, namely, \$357,820.00. This amount of \$357,820.00 plus our engineer's present valuation of \$89,233.98 gives the value of the road when completed as \$447,053.98.

At the hearing on August 7th, applicant agreed to furnish such further data as the Commission and its chief engineer desired and that thereafter, after the same had been considered, to amend its application in conformity to the decision of the engineer of the Commission as to the present and completed value of its road. Such an amended application was filed on August 29th with the stipulation that no further hearing was necessary and that applicant would accept the decision of the Commission upon the data and testimony heretofore presented. At this hearing also the Commission notified applicant and Mr. Summers, who is to purchase the bonds, that some provision should be made to insure the payment of the bond interest for the first two years, and Mr. Summers has since filed a stipulation with the Commission that as he

is to be the purchaser of the bonds he will guarantee the payment of the bond interest for the first two years.

In the amended application applicant asks for permission to issue 40-year 6 per cent bonds in the amount of 80 per cent of \$447,053.98, or in round figures \$358,000.00, said bonds to be sold at 80, netting \$286,400.00, which sum applicant proposes to devote, under the jurisdiction of the Railroad Commission, to the building of the first unit of its road.

It will be seen that applicant will still lack the difference between \$286,400.00 and \$357,643.18, or about \$71,000.00, which sum applicant proposes to provide for as follows: Mr. W. D. Mitchell and Mr. Wiley M. Giffin, stockholders of the road and men of ample means, have each agreed to subscribe for \$25,000.00 of the preferred stock of applicant at par, such subscription to be paid in time to be available for the building of the last five miles of the first unit of applicant's road. This would still leave an amount in the neighborhood of \$20,000.00 which applicant states it can easily raise from further sales of stock when the proceeds of the bonds and the proceeds of the stock subscribed for by Mr. Mitchell and Mr. Giffin have been judiciously expended in the construction of its road. I agree with them that there will be no difficulty in providing the further small sum necessary. The proposition appeals to me as one which if properly handled will prove profitable. In past considerations of the subject I have severely criticized the promoters for the manner in which the proposition has been handled and have made it plain to applicant that the Commission could not view with approval such actions by which \$1,250,000.00 worth of stock, for which but little had been paid, could be offered and sold to the public. Such stock was issued long before the effective date of the Public Utilities Act, and is of course beyond the jurisdiction of the Commission, but in its present application applicant stipulates that practically all of the \$1,250,000.00 of stock issued shall be turned over to Mr. J. H. Summers, who is to take this issue of bonds now prayed for, and Mr. Summers stipulates that no part of said \$1,250,000.00 issue of stock shall be offered or sold to the public until the road is completed and in operation; the only part of said stock which will pass out of his possession before that time will be such amounts as he finds it necessary to give with the bonds to effect the sale thereof. Applicant agrees to make an application to the Commission to retire the \$98,000.00 in bonds issued under the former authorization, as above set forth, and also to care for current indebtedness in a small amount by the issuance of preferred stock which the holders of the \$98,000.00 worth of bonds agree to

take at par, the remainder of the issue to be issued at par to liquidate current indebtedness.

I believe and I find as a fact that the merits of this proposition are such as to justify the Commission in authorizing the issue of bonds as prayed for in the amended application and I recommend the following order:

ORDER.

Whereas the Fresno-Hanford and Summit Lake Interurban Railway Company in its amended application prayed for authority to issue 40-year 6 per cent bonds in the sum of \$358,000.00, to be sold at 80, the proceeds to be devoted to the building of the first unit of its electric road from Fresno, California, to Selma, California; and

Whereas after a careful and exhaustive study and consideration of this proposition, which has been at different times presented to the Commission and thereafter modified until the application has reached its present form; and

Whereas the Commission believes and has found as a fact that said application should be granted,

It is hereby ordered that the Fresno-Hanford and Summit Lake Interurban Railway Company be and it is hereby granted permission to issue its 40-year 6 per cent bonds in the sum of \$358,000.00 and to sell the same at 80 per cent of par, the proceeds of the sale of said bonds to be devoted to the construction and equipment of the first unit of an electric road from Fresno to Selma, under the jurisdiction of the Railroad Commission of the State of California; provided that this order shall not become effective until the Fresno-Hanford and Summit Lake Interurban Railway Company shall have deposited substantially all of the \$1,250,000.00 worth of stock heretofore issued with Mr. J. H. Summers, and Mr. J. H. Summers shall have filed with the Railroad Commission of the State of California a stipulation that no part of said \$1,250,000.00 worth of stock shall be offered or sold to the public until said first unit of the electric road of the Fresno-Hanford and Summit Lake Interurban Railway Company from Fresno, California, to Selma, California, shall have been completed and put in operation. Said J. H. Summers shall further stipulate that the only part of said \$1,250,000.00 stock of the Fresno-Hanford and Summit Lake Railway which will leave his possession will be such amounts as he finds it necessary to give as a bonus to effect the sale of the bonds hererin authorized.

Applicant shall keep separate, true, and accurate accounts showing the disposition of the bonds herein authorized to be issued, the amount of money derived from the issue of said bonds and the application of

said moneys, and on or before the twenty-fifth day of each month shall make a verified report to the Commission showing the amount of bonds issued, the proceeds derived therefrom and the application of the same during the preceding month, all in accordance with the terms of this Commission's General Order No. 24, which in so far as applicable are made a part of this order.

This opinion and order shall not become operative until the legal fee provided in such cases by the Public Utilities Act shall have been paid.

The authority herein granted applicant to issue bonds shall only apply to bonds issued on or before one year from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 913.

IN THE MATTER OF THE APPLICATION OF ANSEL M. EASTON, OWNER OF THE BLACKHAWK WATER COMPANY, FOR PERMISSION TO SELL SAID COMPANY TO THE CITY OF BURLINGAME.

Application No. 718.

Decided August 30, 1913.

Applicant permitted to sell his water system to the city of Burlingame for the sum of \$5,520.00.

F. J. Rodgers, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application of Ansel M. Easton, sole owner of the Blackhawk Water Company, for permission to sell said water company to the city of Burlingame, California, for the sum of \$5,520.00.

The conditions which lead applicant to desire to sell his water system are as follows:

The city of Burlingame, California, has decided to have a municipal water system, and to that end is about to purchase the Peninsula Water

Company and the Blackhawk Water Company, and to sink such wells as are necessary to give the city an ample supply for its present and future needs.

The value of the Blackhawk Water Company's plant and distributing system is appraised at \$20,000.00. Applicant, through its attorney, Mr. Rodgers, admitted that there would probably be some depreciation and that the owner, Mr. Easton, had therefore reduced the appraised value by 75 per cent.

Mr. Gustave J. McGregor, president of the board of trustees of the city of Burlingame, was present at the hearing and stated that they considered the property worth more than Mr. Easton was asking for it and that the board had passed resolutions to purchase the same.

I find as a fact under the circumstances and conditions that the interests of the residents and water users of Burlingame will be best served by permitting the transfer and I recommend the following order:

ORDER.

Whereas Ansel M. Easton, owner of the Blackhawk Water Company at Burlingame, California, has applied to this Commission for permission to sell said water plant and distributing system to the city of Burlingame; and

Whereas the city of Burlingame has decided to install and is installing a municipal water plant; and

Whereas the price agreed upon is satisfactory to applicant and to the board of trustees of the said city of Burlingame; and

Whereas the Commission has found that the interests of the residents and water users of Burlingame will best be served by permitting the transfer,

It is hereby ordered that Ansel M. Easton, owner of the Blackhawk Water Company, be and he is hereby granted permission to sell said Blackhawk Water Company to the city of Burlingame, California, for the sum of fifty-five hundred and twenty (\$5520.00) dollars.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 914.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED AND FIFTY-FOUR THOUSAND DOLLARS.

Application No. 616.

Decided August 30, 1913.

Applicant permitted to issue bonds of the face value of \$354,000.00, proceeds to be used in the refunding of obligations incurred for construction, additions, and betterments.

A. L. Chickering, of Chickering & Gregory, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Since the effective date of the Public Utilities Act, applicant, the Western States Gas and Electric Company, has been before the Railroad Commission upon three different occasions asking for permission to issue bonds, the authorization for which was previous to the effective date of the Public Utilities Act, to wit, on June 11, 1911.

The first application for bonds presented by the Western States Gas and Electric Company was for the face value of \$351,000.00, to be issued for the purpose of refunding indebtedness proper to be so refunded; and the second application was for the face value of \$600,000.00 for like purpose. The third application was for \$397,000.00, for the purpose of refunding obligations created in construction, additions and betterments to its plant.

The present application is for \$354,000.00, also for the purpose of refunding obligations incurred for construction, additions and betterments to its plant.

At the time the first application was filed (Application No. 66), applicant stated that it was unable to state original cost of its plant, system and equipment, owing to the fact that same were constructed and acquired from time to time by the immediate or previous predecessors of applicant, but that applicant had acquired all the real, personal and mixed property, rights, privileges, franchises and assets of the Stockton Gas and Electric Corporation, Richmond Light and

Power Corporation, American River Electric Company and the Humboldt Gas and Electric Company in December, 1910, at a cost of \$5,000,000.00, and the assumption by applicant of the floating indebtedness of said corporations; that of said \$5,000,000.00, \$3,000,000.00 was realized by the sale at par of 15,000 shares of common capital stock of applicant and 15,000 shares of preferred capital stock of applicant, and for the remaining \$2,000,000.00, collateral notes of applicant, secured by bonds, were given, all of which notes and bonds have since been retired and canceled by the issue of 17,000 shares of common and 3,000 shares of preferred stock of applicant.

The granting of permission to issue bonds prayed for, under Application No. 140, was also done without an inventory of applicant's property, for the reason that there seemed to be no doubt as to applicant's equity or margin to justify such action.

In connection with the granting of Application No. 304, an inventory of applicant's assets was filed with the Commission, the accuracy of which inventory was questioned by the engineers of the Commission and later said inventory was made the subject of attack during the hearing of the application of the Oro Electric Corporation for permission to enter Stockton, and, although the bonds prayed for under Application No. 304, were granted, it being evident that the net assets of applicant justified such action on the part of the Commission, it is testified in this hearing that, on account of these attacks, applicant determined to take a careful inventory of its property and that such inventory is now in the process of being taken.

The trust deed under which the bonds of applicant are issued provides that bonds may only be issued to 75 per cent of money actually expended for construction, additions or betterments and that only when its earnings are twice the amount of its bond interest, including the interest on the bonds prayed for.

The testimony shows that applicant has complied with both of these conditions.

The investigation of our engineer, Mr. Kelley, corroborates this, and Mr. Kelley's report shows that the margin between applicant's bonded indebtedness, including the issue now asked for, and the value of applicant's assets is sufficient to justify the Commission in granting this application for applicant to issue bonds in the face value of \$354,000.00, as, after reducing applicant's form valuation by 25 per cent, there remains a margin between applicant's bonded indebtedness, including the present issue, and its valuation so reduced of \$724,406.00 if based upon cost of reproduction, or \$97,943.00 if based upon present value.

In the present application, filed June 20, 1913, applicant stated that the \$397,000.00 face value of bonds for refunding purposes, formerly granted by the Commission, had not been sold, owing to the condition of the money market, but remained in applicant's treasury. At the hearing, however, applicant testified that the bonds mentioned had since been sold and obligations of applicant for construction purposes paid and discharged with the proceeds thereof, as per the following statement:

| | |
|--|--------------|
| Note of the Continental Trust and Savings Bank----- | \$100,000 00 |
| Note of the United States Cast Iron Pipe Company----- | 5,000 00 |
| On account of notes to Standard Gas and Electric Company-- | 248,826 25 |

Former issues of bonds by applicant have been sold at from 87½ to 88½ and applicant asks to sell bonds asked for in the present application at 88½, and believes that it can sell them at that price, but asks, further, that, in the event, owing to financial conditions, that it can not sell them at present at that price, that it be permitted to hypothecate them at not less than 80.

I find as a fact that the financial condition of applicant is such as to warrant the Commission in granting the issue of \$354,000.00 face value of bonds, as prayed for, and that the use to which the proceeds of the sale of such bonds is to be devoted, to wit, refunding of obligations incurred for construction, additions and betterments, is a proper and legal one; that the obligations to be paid by the proceeds of the present issue of bonds are as set forth in the order herein.

I therefore recommend that the Commission grant permission to the applicant, as prayed for.

I recommend the following order:

ORDER.

Whereas the Western States Gas and Electric Company has applied to the Commission for permission to issue its bonds of the face value of \$354,000.00, being bonds numbered M3896 to M4246, both inclusive, for the purpose of refunding obligations incurred in construction, additions and betterments to its plant or system; and

Whereas the Commission has found as a fact that the financial condition of applicant warrants the granting of such permission as prayed for, and that the use to which the money realized from the sale of said bonds is to be devoted is proper and legal;

It is hereby ordered that the Western States Gas and Electric Company be and it is hereby granted permission to issue the above bonds

of the face value of \$354,000.00, the proceeds from the sale to be used for the following purposes only:

(1) For the discharge of the following obligations, or so much thereof as the proceeds will permit:

| | |
|---|-------------|
| (a) Humboldt County Savings Bank----- | \$15,000 00 |
| (b) Seaboard National Bank----- | 11,000 00 |
| (c) Standard Gas and Electric Company----- | 321,499 20 |
| (d) H. M. Bylesby & Company----- | 15,010 00 |
| (e) General Electric Company on note, August 28, 1913---- | 26,910 22 |
| (f) General Electric Company on note, September 27, 1913 | 19,596 39 |
| (g) General Electric Company on note, September 27, 1913 | 10,000 00 |

| | |
|-------------|--------------|
| Total ----- | \$419,015 81 |
|-------------|--------------|

Permission is hereby given to pay with the proceeds of the sale of the said bonds hereby authorized obligations in like amount which may have been substituted for the obligations herein specified.

It is further ordered that applicant be and it is hereby permitted to sell said bonds, herein authorized to be issued, at 88½, and, in the event, owing to financial conditions, it can not sell them at present at that price, that it be permitted to hypothecate them at not less than 80.

Western States Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The authority hereby given to issue such bonds shall apply only to bonds issued by said company on or before the thirtieth day of August, 1914.

The payment of the fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 915.

IN THE MATTER OF THE APPLICATION OF HALF MOON BAY LIGHT AND POWER COMPANY FOR PERMISSION TO INCREASE ITS AGRICULTURAL AND POWER RATES FOR ELECTRIC POWER SERVICE.

Application No. 672.*Decided August 30, 1913.*

Held. That applicant be permitted to substitute such rates for agricultural and power service as are incorporated in this order, provided that it complies with the certain conditions agreed upon.

J. O. McElroy, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The Half Moon Bay Light and Power Company, applicant herein, was organized in May, 1911, for the purpose of furnishing electric energy for heat, light and power purposes to consumers of such energy in that portion of San Mateo County extending from the southerly line of the city and county of San Francisco along the coast to the town of Purissima.

The Half Moon Bay Light and Power Company filed the rates with the Commission which it proposed to charge to its consumers for electrical energy for heat, light and power purposes, and the application came on regularly for hearing on July 31, 1912. This application was opposed by the Pacific Gas and Electric Company, which company was serving a small section in the northern part of San Mateo County through a subsidiary company known as the South San Francisco Power and Light Company. On the day previous to the hearing, the Half Moon Bay Light and Power Company filed an amended application asking for permission to reduce its rates for agricultural and power purposes formerly filed with the Commission, but limiting the area to be served at such reduced rates to Jefferson School District, San Mateo County, claiming that the density of population in that section justified applicant in giving the lower rate asked for.

In its opinion and order, dated August 7, 1912, the Commission granted the application of the Half Moon Bay Light and Power Company to exercise its franchise rights, but made it a condition of that order that the lower rates asked for in its amended petition should apply to all of the territory served by it.

Applicant does not generate the electric energy which it sells, but purchases same from the Great Western Power Company.

In its present application, permission is asked to increase the rates of the Half Moon Bay Light and Power Company for agricultural and power purposes, the rates which applicant desires to put into effect being as follows:

POWER SERVICE.

This schedule is for all power installations of three horsepower or over, and is based upon kilowatt hours consumed per horsepower installed.

If kilowatt hours consumed in one month per horsepower is equal to

| | 54 | 108 | 162 | 216 | 270 |
|--|-----|-----|-----|-----|-----|
| 3 horsepower and not over 25 horsepower installed | 4¢ | 3½¢ | 3¼¢ | 3¼¢ | 3¢ |
| Over 25 horsepower and not over 50 horsepower installed | 4¢ | 3½¢ | 3¼¢ | 2¼¢ | 2¼¢ |
| Over 50 horsepower and not over 100 horsepower installed | 3¼¢ | 3¼¢ | 2¼¢ | 2¼¢ | 2¢ |

A minimum charge of one dollar (\$1.00) per month per horsepower installed on all power load other than agricultural power, where the minimum charge will be on an annual basis of twelve dollars per horsepower installed.

Each of applicant's patrons who would be affected by the proposed advance in agricultural and power rates was notified of the request of applicant to raise its rates, and at the hearing of the application, regularly held at the office of the Commission, on August 13, 1913, and at the adjourned hearing on Saturday, August 23, 1913, about twelve of such consumers or patrons were present. Most of them were foreigners and but three could speak English. These testified, as will be set forth later, and the others, after having the testimony explained, agreed on all important points with the testimony given by the three who were witnesses.

Applicant testified that its desire to increase its rates, as prayed for, and the necessity for such increase arose from the fact that, at the time its rates were first filed with the Commission, such rates were based upon the cost of the electric energy which it was purchasing and distributing to its patrons or consumers, such cost being based upon the readings of the meters installed at the time the plant of the Half Moon Bay Light and Power Company was put in operation. Being unfamiliar with conditions incident to the transmission and distribution of electric energy, applicant testified that it made no allowance for loss in such transmission and distribution, but figuring upon what it paid for the current, applicant believed that it could reduce its rates for agricultural and power purposes, and, accordingly, made such reductions.

Some time afterwards, applicant discovered that there was a substantial loss in the receipt and delivery of the electric energy and that, at the rates which it had voluntarily put into effect, it was losing money in the operation of its plant.

In the mean time, applicant had induced several farmers to exchange their gas engines with applicant for electric motors and had agreed verbally, with promise of written contract later, to furnish them electric energy at the reduced rates which it had voluntarily made. No written contracts were executed, as applicant soon learned of the loss above referred to and filed its present application to advance its agricultural and power rates.

At the time the application first came on for hearing, applicant presented the testimony of Mr. B. B. Beckett, engineer for applicant, to support its allegation as to loss incident to receipt and delivery of electric energy by the plant of applicant, and the testimony of its vice-president and manager, Mr. J. J. Gomes, and of its engineer in charge of plant, Mr. J. L. Posey, to substantiate the further allegation that, at the reduced rates, the operation of the plant would not pay expenses.

The consumers above referred to were given an opportunity to testify and the three who could speak English, namely, Mr. R. Schenone, Mr. Arthur Quillicci and Mr. F. Martini, were sworn and gave testimony, the two first named at the first hearing, and Mr. Schenone and Mr. Martini at the second hearing, the effect of which testimony was that they believed that the present rates of applicant are high enough, and that they and others would not have exchanged their gas engines for motors and substituted electricity for gas engine power had they known that applicant's rates would be raised.

The testimony offered by applicant, and that of the consumers who testified, showed that the expense to farmers of pumping water for irrigation by electricity at applicant's present rates or by gas engine was practically the same, the present rates by electricity, if anything, being a trifle lower. Under the rates asked for, the cost for pumping by electricity would be higher than by gas engine, although it was admitted that the convenience of pumping by electricity was much greater.

An adjournment was taken to permit Mr. Bridge, the assistant electrical engineer of the Commission, to check the statement presented by applicant's engineer as to loss of energy and the reasons therefor, and to prepare and present to the Commission his study and analysis of applicant's plant and the operation thereof.

At the adjourned hearing, further testimony was offered by applicant's engineer and the report of the Commission's assistant electrical engineer was filed, and testimony in explanation and support thereof given by Mr. Bridge.

In general, and particularly as to loss incident to the receipt and delivery of electrical energy by applicant, the report and testimony

of the Commission's assistant electrical engineer agreed with that of applicant's engineer. Both agreed that such loss was normal and incident to the operation of a plant like that of applicant.

Testimony was introduced by applicant to show that, although, as stated, the proposed rates which it asked permission to install are a little higher than the cost of pumping for irrigation by gas engine, several of applicant's consumers have expressed their satisfaction with the proposed rates.

Mr. J. J. Gomes, vice-president of applicant, testified that if the Commission granted permission to applicant to install the proposed rates for agricultural and power purposes, applicant would agree to replace the gas engines and take back the electric motors from any of its consumers who had exchanged their gas engines for electric motors with applicant and now desired to reinstall the gas engines, such exchange to be without cost to the consumer, and after the hearing Mr. Gomes also agreed for his company that if any of his consumers who had purchased electric motors without exchanging any gas engine for the same desired, he would take such motors off their hands at the cost thereof.

Under all the facts of the case, and in consideration of the former willingness of applicant to voluntarily reduce its rates when it believed it could afford to do so, and in view of the fact that applicant's claim as to loss and that present rates are unremunerative is substantiated by the testimony of Commission's assistant electrical engineer, who testified directly that, in his opinion, applicant was not paying expenses at present rates (see transcript, page 95, hearing August 23, 1913), and in view of the stipulation by applicant that it will take back its electric motors and replace the gas engines which it took from its consumers when asked to do so, I believe and I find as a fact—

First—That the present agricultural and power rates of the Half Moon Bay Light and Power Company are too low;

Second—That applicant is entitled to an increase in rates, and that the rates herein set forth are just and reasonable rates;

Third—That the Commission should accept the stipulation of applicant to replace the gas engines taken from its consumers upon request and should make the continued effectiveness of the order herein contingent upon the carrying out of that stipulation by applicant, provided that nothing in this opinion and order shall be considered as in any way releasing applicant from its contractual relations with the E. B. and A. L. Stone Company.

The rates which the Commission permits applicant to put into effect differ from those asked for in that they are based on the cost of service

including fixed and variable charges, whereas the rates prayed for do not attempt to remunerate the utility for its investment in the plant required to serve the consumer. The Commission has heretofore recognized the justice of a demand charge to protect the power company and the other consumers from loss in case the service provided upon request is not utilized by a consumer. (See rates established by Commission in case of Northern California Power Company.)

In this case—where the investment per horsepower is large and the actual energy cost is a small part of the total—it is essential that the rate should cover both, especially as the consumption per unit connected is extremely variable and of limited duration. The rates which the Commission prescribes as reasonable in this application are based on the above considerations, and applicant will be required to put them into effect for a period of six months, at the expiration of which time the Commission can permit such changes as the equities of the case may demand.

I recommend the following order:

ORDER.

The Half Moon Bay Light and Power Company, applicant herein, having applied to this Commission for permission to increase certain agricultural and power rates now charged to its consumers for electrical energy; and a hearing having been regularly held; and the circumstances, making for and against the granting of an increase in rates, thoroughly investigated, as set forth in the foregoing opinion; and the Commission having found that said application should be granted in part,

It is hereby ordered that Half Moon Bay Light and Power Company be and it is hereby granted permission to substitute for its present rates now on file with this Commission the following rates, to wit:

SEASONAL POWER RATES APPLICABLE TO AGRICULTURAL SERVICE.

Demand charge—one dollar (\$1.00) per horsepower per month, plus energy charge $2\frac{1}{2}$ cents per kilowatt hour.

Bill to be rendered only during irrigation season (normally five months).

POWER RATES APPLICABLE TO SMALL INDUSTRIAL POWER SERVICE (0-50 HORSEPOWER).

Demand charge—one dollar (\$1.00) per horsepower per month, plus energy charge $2\frac{1}{2}$ cents per kilowatt hour.

Be it further ordered that the granting of this permission is based in part upon the promise of the applicant to replace the gas engines which it has taken from some of its consumers in exchange for electric motors, and that, upon proof being furnished to the Commission that applicant has not kept said stipulation after being requested to do so,

this order will be rescinded and present rates restored until the conditions of said stipulation have been complied with.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 916.

IN THE MATTER OF THE APPLICATION OF FINNELL WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE
ISSUE OF FIFTEEN SHARES OF STOCK.

Application No. 704.

Decided August 30, 1913.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Finnell Warehouse Company having applied to this Commission for permission to issue fifteen shares of stock of the aggregate par value of \$15.00, for the purpose of repaying a loan of \$15.00 made to applicant, the money borrowed being used to pay to the Secretary of State a fee of \$15.00, being the amount required to be paid upon the filing of the articles of incorporation of applicant in the office of the Secretary of State, and a public hearing having been held upon this application, and the Commission being of the opinion that the purpose for which this stock is to be issued is not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Finnell Warehouse Company be and it hereby is authorized to issue fifteen shares of stock of the aggregate par value of \$15.00, upon the following conditions, and not otherwise, to wit:

1. The stock herein authorized to be issued shall be issued so as to net applicant the par value thereof.
2. The proceeds derived from the sale of the stock herein authorized to be issued, shall be used to refund a loan of \$15.00 made to applicant, the proceeds of which loan were used to pay to the Secretary of State the necessary fee upon the filing with the Secretary of State of the articles of incorporation of applicant.

3. Said company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

4. The authority herein given applicant to issue stock shall apply only to such stock as is issued on or before January 1, 1914.

By order of the Railroad Commission.

Dated at San Francisco, California, this 30th day of August, 1913.

Decisions Nos. 917, 918, 919 and 920, grade crossings; not printed. See end of volume.

DECISION No. 921.

R. H. KNOX, E. R. EVERETT, FRANK DECKER, A. G. DU BRUTZ, A. FOURCHY, H. J. PRAEGER, GEORGE R. GREENLEAF, J. H. BONE, W. G. CODMAN, B. W. THAYER, AND SAMUEL B. McLENEGAN, PROPERTY OWNERS AND RESIDENTS OF SAN JOSE EAST SIDE DISTRICT,

VS.

SAN JOSE AND SANTA CLARA COUNTY RAILROAD COMPANY
AND SAN JOSE RAILWAYS.

Case No. 409.

Decided August 30, 1913.

Complaint of certain residents of the east side district of San Jose, alleging unsafe and inadequate service on the Alum Rock Line of defendant, and protesting against the intention of defendant to abandon a certain portion of said line. Defendant contends that it has been notified that it would be required to remove a considerable portion of its tracks along this right of way by the property owners thereof; that the Peninsular Railway Company, under the same ownership as defendant, has secured a private right of way via a different route between this same termini.

Held, That defendant reconstruct its narrow gauge road between San Jose and Alum Rock as a standard gauge road; that defendant reconstruct that portion of its road between Linda Vista and Toyon Station, and shall further extend road so as to connect with the Peninsula Railway at or near Toyon Station.

Held, That defendant be permitted to abandon and remove that portion of its road from Toyon Station one half mile towards Alum Rock Canyon.

W. H. Robinson, attorney for Plaintiffs.

S. F. Leib and *Owen D. Richardson*, attorneys for Defendants.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This case came on regularly for hearing in San Jose, California, August 20, 1913.

Defendants having set forth in pleadings that the San Jose and Santa Clara County Railroad Company had been made defendants in this case through error, and counsel for plaintiffs admitting that such was the fact, complaint was considered amended and as being directed only against the San Jose Railways, a corporation.

It was admitted by defendant that the Southern Pacific Company owns the stock of the San Jose and Santa Clara County Railroad Company, a corporation, and of the San Jose Railways, a corporation.

The case was very thoroughly and ably presented by counsel for plaintiffs and defendant, and the testimony disclosed the following facts:

About twenty years ago, one R. H. Quincey obtained from the board of supervisors of Santa Clara County, a franchise permitting him, or his assigns, to construct, maintain and operate a double track street railroad along the highways known as Alum Rock avenue and Kirk avenue and along the Penetencia Canyon to the Alum Rock Reservation in the county of Santa Clara, said franchise to run for the period of thirty-five years; that while this franchise appeared to have been forfeited by said Quincey, another franchise was granted to a company organized by him and the road was built. The testimony further showed that, so far as physical operations were concerned, it was operated successfully for a considerable term of years, and that it finally passed into the ownership of defendant, San Jose Railways; that in 1911 that portion of the road in Alum Rock Canyon was practically destroyed by a cloudburst. Instead of rebuilding the portion of the road in the canyon thus destroyed, defendant continued to operate the road from San Jose to Toyon Station, at the mouth of the canyon, although permitting the roadbed and equipment to get in bad condition and to remain in that condition.

Within the past two years, the Peninsular Railway Company (a subsidiary of the Southern Pacific Company) has secured franchises and rights of way and has built a standard gauge road from San Jose to Alum Rock Park via Berryessa. The distance between the old narrow gauge road comprehended in this complaint and the new standard gauge

road thus built is about one and one half miles. At Toyon Station, which is at the mouth of the Alum Rock Canyon, the new road passes within about two hundred feet of the terminus of the old road, but a creek, known as Penetencia Creek, is between the terminus of the old road and the new road. Passengers going to the park via the old road have to transfer at the terminus of the old road and walk about three hundred feet over the bridge across Penetencia Creek and take the cars on the new road.

The franchise heretofore mentioned granted to Quincey provided for a continuous trip from San Jose to Alum Rock Canyon, but, as before stated, that ordinance appears to have lapsed and the one under which the road was constructed did not provide for a continuous trip.

Plaintiffs are asking in this case to have the old narrow guage road converted into a standard gauge road and a proper connection made with the Berryessa line at Toyon, and for a continuous passage to Alum Rock Park.

It appears from the testimony that defendant has seriously contemplated the rebuilding of the old road and has secured a franchise from the city of San Jose for a considerable distance in said city along the line of the old road, said franchise disclosing defendant's purpose of building a standard gauge road for the distance covered by said franchise.

The defendant sought to obtain a franchise on the Alum Rock road to Kirk avenue, and witnesses for the defendant testified that it has been its intention to reconstruct the Alum Rock line as far as Kirk avenue as a standard gauge road, but were undecided as to what steps would be taken with reference to that portion of the narrow gauge line beyond the intersection of Kirk avenue and Alum Rock road and Toyon Station.

It was alleged by the defendant that the residents along the narrow gauge line protested to the supervisors against granting a franchise for a standard gauge line only as far as Kirk avenue; and we can readily understand the motive behind such objection, as it seems apparent that it was the intention of the defendant to secure a franchise and rebuild its narrow gauge line as far as Kirk avenue and Alum Rock road and abandon that portion of the line thence to Toyon Station.

Some of plaintiffs testified that promises had been made by the representatives of defendant that the old road would be rebuilt, but such representatives of defendant denied making definite promises, although admitting that the matter was under consideration.

The case had been brought before the Commission several months before in an informal manner, and the chief engineer of the Com-

mission, Mr. R. A. Thompson, had made an examination and study of the situation. His report to the Commission was introduced as an exhibit by plaintiffs, and reference is hereby made to it.

When asked why the new standard gauge road via Berryessa had been built by the Peninsular Railway Company, instead of repairing and reconstructing that portion of the San Jose Railways from San Jose to Alum Rock Park, comprehended in this complaint, when the stock of both companies was owned by the Southern Pacific Company, defendant stated that the charter or franchise for that portion of the San Jose Railways' road had but thirteen years longer to run, and that said road was constructed on public streets and rights of way not owned by the San Jose Railways; that they doubted whether they could secure a renewal of such rights of way; in fact, had been notified by the ownership of a considerable portion of the right of way that they would be required to remove their track; that for the line via Berryessa the company had secured the title to private rights of way and private rights of way comprehending a much better route into the canyon.

Considerable testimony was given by both plaintiffs and defendant as to the number of people who would naturally use the old line if properly reconstructed and equipped, there being found considerable conflict in such testimony.

After carefully analyzing all of the testimony submitted at the hearing of this case, including the report of former chief engineer, Mr. R. A. Thompson, and a later report by M. Hugh Wilson, service expert for the Commission, which it was stipulated at the hearing that the Commission might consider although submitted after the hearing was closed, I am of the opinion and find as a fact that the narrow gauge road from San Jose to Toyon, being a part of the road comprehended in this complaint, should be rebuilt, properly equipped, and conducted as a standard gauge road.

It was testified by Mr. McLenegan—and he also testified that he was satisfied that a neighbor of his would do likewise—that he would probably give to defendant the right of way necessary to cross his lands. In fact, he testified that he would do so, the only question being as to the exact location of said right of way. From the testimony in the case, I believe that defendant will have little difficulty in renewing its rights of way. It is not to be expected that the defendant will encounter difficulty in securing rights of way along its present route, and if the property owners who are to be benefited by the reconstruction of this line do not see fit to continue the right of way privileges of the defendant for a reasonable length of time, a modification of this opinion may be necessary.

The testimony shows that the road passes through a section that is susceptible of substantial development in point of population, and it also shows that defendant is under obligation to the people living along its line to furnish them adequate transportation. The parties securing the franchise for the building of this road took upon themselves such obligations, and defendant, in taking over the property, should also take over the obligation. It is unreasonable to expect that every line of road of a large system like defendant will be profitable in its operation, although in this case there was considerable testimony to show that such development would follow the reconstruction of the line as would make its operation profitable.

The defendant presented, in its Exhibit No. 5, detailed estimate of the cost of reconstruction of that portion of the narrow gauge line between King road and Toyon Station, such reconstruction comprehending the conversion of the line into a standard gauge single track electric line. This estimate places the cost at about \$80,000.00, but it must be borne in mind that it was apparently the intention of the defendant to reconstruct the line as far as Kirk avenue and Alum Rock road, and that, according to its estimate presented, the expenditure for this reconstruction would amount to approximately \$50,000.00. The only additional outlay, therefore, which the defendant will be required to make is for that portion of the line beyond Kirk avenue and Alum Rock road to Toyon Station, and according to its figures this outlay should not amount to more than \$30,000.00.

If the defendant had not permitted its narrow gauge line to get into such a deplorable physical condition, the cost of standard gauging it would have been very much less than at present. Had this line been properly kept up there would have been no difficulty, after the Alum Rock Canyon line had been washed out, in reconstructing the same via the new route beyond Toyon used by the Peninsular Railway. But, instead of keeping its narrow gauge Alum Rock line in good physical condition, the defendant permitted the same to go to pieces for want of repair.

It may well be that the narrow gauge line in the Alum Rock Canyon could not be rebuilt safely along the same route that was washed out by the floods in 1911, but there was nothing to prevent the defendant locating a higher and safer line which the Peninsular Railway, under the same management and control as the defendant, found no difficulty in locating. If the owners of the defendant line, through their ownership of other electric properties, care to construct a new route into the Alum Rock Canyon via Berryessa, there appears by this fact no adequate reason for abandoning the line via the Alum Rock road; and the defendant should be required to not only reconstruct and

convert its narrow gauge line into a standard gauge line as far as Kirk avenue, which was its original intention when applying for a franchise to that point, but also continue on to a connection with the Peninsular Railway beyond Toyon Station.

While I am finding as a matter of fact that that portion of defendant's road in question should be reconstructed as standard gauge road, comprehending an outlay of from \$70,000.00 to \$80,000.00, I am not unmindful of the present financial condition of the country, and shall not recommend that defendant be ordered to reconstruct this line within such period of time as would compel it to pay an unreasonable rate of interest for the money necessary for the reconstruction.

While I find as a fact that public convenience and necessity require a connection between that part of defendant's line which I am recommending should be rebuilt and its Berryessa line at Toyon, I do not find as a fact that defendant should nor shall I recommend that it be required to furnish a continuous trip over this line from San Jose to Alum Rock Park unless the travel via the Alum Rock road route is sufficient to justify the defendant in operating its cars through to Alum Rock Reservation in connection with the Peninsular Railway beyond Toyon. If an up-to-date standard gauge road is constructed and operated along the line in question, I believe that those who use it may well be satisfied, although required to transfer at Toyon when en route to Alum Rock Park.

I recommend the following order:

ORDER.

R. II. Knox et al. having filed a complaint with the Commission alleging that the San Jose Railways, a corporation, operating street car lines and suburban lines in and about San Jose, California, had failed and neglected to reconstruct a portion of one of its lines of railroad in Alum Rock Canyon which was destroyed by cloudburst in 1911, and had permitted another portion of the same line of its road, extending from San Jose to Toyon Station, at the mouth of Alum Rock Canyon, to get in bad condition, both as to track and equipment; and complaint further alleging that, under the terms of the franchise under which said road was built, the San Jose Railways, successors in interest to the parties who obtained the franchise for said road, are under obligation to repair and put in good condition the road and equipment of that portion still in operation and rebuild that portion in Alum Rock Canyon which was destroyed, as above set forth, and requesting the Commission to order that such repairs be made and such construction be done;

And the Commission having found as a fact, from the testimony introduced at the hearing, and from the report of its former Chief

Engineer, Mr. R. A. Thompson, which was introduced and made a part of the record in this case, and also from the report of its Service Expert, Mr. Hugh Wilson, that portions of said road between San Jose and Toyon Station are in bad condition, although not considered by these gentlemen as absolutely unsafe; and having found as a further fact that, under all of the circumstances of the case, the defendant, San Jose Railways, should reconstruct said railroad from San Jose to Toyon Station, as set forth in the opinion preceding this order, and connect said reconstructed road with the Peninsular Railway with a line recently built and operated by the Peninsular Railway Company from San Jose to Alum Rock Park via Berryessa, such connection to be at Toyon Station; and having found as a further fact, that if said road is so reconstructed and connected with the line of the Peninsular Railway at Toyon Station that the line extending from Toyon Station, a distance of about one half mile towards Alum Rock Canyon, will no longer be useful or necessary, either for public or private use, it is hereby ordered—

First—That, within six months from date of this opinion and order, the defendant, San Jose Railways, shall reconstruct that portion of its San Jose and Alum Rock narrow gauge road in question as a standard gauge road, and properly equip the same from the present terminus of its standard gauge road at Twenty-sixth street, San Jose, to Linda Vista station, a distance of three and one fourth miles;

Second—That, within six months thereafter, or within one year from date of this opinion and order, the defendant, San Jose Railways, shall reconstruct that portion of its narrow gauge road extending from Linda Vista to Toyon Station, a distance of one and one fourth miles, as a standard gauge road, properly equipped, and shall make such further extension of said road as will connect said road with the line of the Peninsular Railway Company at or near Toyon Station;

Third—That defendant, San Jose Railways, is hereby granted permission to dismantle and remove that portion of its narrow gauge road from Toyon Station, a distance of about one half mile towards Alum Rock Canyon.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

convert its narrow gauge line into a standard gauge line as far as Kirk avenue, which was its original intention when applying for a franchise to that point, but also continue on to a connection with the Peninsular Railway beyond Toyon Station.

While I am finding as a matter of fact that that portion of defendant's road in question should be reconstructed as standard gauge road, comprehending an outlay of from \$70,000.00 to \$80,000.00, I am not unmindful of the present financial condition of the country, and shall not recommend that defendant be ordered to reconstruct this line within such period of time as would compel it to pay an unreasonable rate of interest for the money necessary for the reconstruction.

While I find as a fact that public convenience and necessity require a connection between that part of defendant's line which I am recommending should be rebuilt and its Berryessa line at Toyon, I do not find as a fact that defendant should nor shall I recommend that it be required to furnish a continuous trip over this line from San Jose to Alum Rock Park unless the travel via the Alum Rock road route is sufficient to justify the defendant in operating its cars through to Alum Rock Reservation in connection with the Peninsular Railway beyond Toyon. If an up-to-date standard gauge road is constructed and operated along the line in question, I believe that those who use it may well be satisfied, although required to transfer at Toyon when en route to Alum Rock Park.

I recommend the following order:

ORDER.

R. H. Knox et al. having filed a complaint with the Commission alleging that the San Jose Railways, a corporation, operating street car lines and suburban lines in and about San Jose, California, had failed and neglected to reconstruct a portion of one of its lines of railroad in Alum Rock Canyon which was destroyed by cloudburst in 1911, and had permitted another portion of the same line of its road, extending from San Jose to Toyon Station, at the mouth of Alum Rock Canyon, to get in bad condition, both as to track and equipment; and complaint further alleging that, under the terms of the franchise under which said road was built, the San Jose Railways, successors in interest to the parties who obtained the franchise for said road, are under obligation to repair and put in good condition the road and equipment of that portion still in operation and rebuild that portion in Alum Rock Canyon which was destroyed, as above set forth, and requesting the Commission to order that such repairs be made and such construction be done;

And the Commission having found as a fact, from the testimony introduced at the hearing, and from the report of its former Chief

Engineer, Mr. R. A. Thompson, which was introduced and made a part of the record in this case, and also from the report of its Service Expert, Mr. Hugh Wilson, that portions of said road between San Jose and Toyon Station are in bad condition, although not considered by these gentlemen as absolutely unsafe; and having found as a further fact that, under all of the circumstances of the case, the defendant, San Jose Railways, should reconstruct said railroad from San Jose to Toyon Station, as set forth in the opinion preceding this order, and connect said reconstructed road with the Peninsular Railway with a line recently built and operated by the Peninsular Railway Company from San Jose to Alum Rock Park via Berryessa, such connection to be at Toyon Station; and having found as a further fact, that if said road is so reconstructed and connected with the line of the Peninsular Railway at Toyon Station that the line extending from Toyon Station, a distance of about one half mile towards Alum Rock Canyon, will no longer be useful or necessary, either for public or private use, it is hereby ordered—

First—That, within six months from date of this opinion and order, the defendant, San Jose Railways, shall reconstruct that portion of its San Jose and Alum Rock narrow gauge road in question as a standard gauge road, and properly equip the same from the present terminus of its standard gauge road at Twenty-sixth street, San Jose, to Linda Vista station, a distance of three and one fourth miles;

Second—That, within six months thereafter, or within one year from date of this opinion and order, the defendant, San Jose Railways, shall reconstruct that portion of its narrow gauge road extending from Linda Vista to Toyon Station, a distance of one and one fourth miles, as a standard gauge road, properly equipped, and shall make such further extension of said road as will connect said road with the line of the Peninsular Railway Company at or near Toyon Station;

Third—That defendant, San Jose Railways, is hereby granted permission to dismantle and remove that portion of its narrow gauge road from Toyon Station, a distance of about one half mile towards Alum Rock Canyon.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 922.

IN THE MATTER OF THE APPLICATION OF ARTHUR W. SLOAN AND FRANK ROSEBROUGH TO SELL THE SYSTEM OF THE NORDHOFF WATER COMPANY TO THE OJAI POWER COMPANY; AND OF OJAI POWER COMPANY FOR A CERTIFICATE DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF CERTAIN FRANCHISE RIGHTS; AND OF OJAI POWER COMPANY TO ISSUE STOCK OF THE PAR VALUE OF TEN THOUSAND DOLLARS; AND OF OJAI IMPROVEMENT COMPANY TO LEASE A CERTAIN WATER SYSTEM TO OJAI POWER COMPANY.

Application No. 577.

Decided August 30, 1913.

Held. That applicants Sloan and Rosebrough be authorized to sell the Ojai Power Company for the sum of \$3,000.00 a certain water system known as the Nordhoff Water Company, and that the Ojai Power Company be authorized to issue a promissory note in the sum of \$2,500.00, proceeds to be used in part payment for the purchase of said water system.

Held. That the Ojai Power Company be authorized to issue \$10,000.00 par value of capital stock to be sold at par, proceeds to be used partly in refunding promissory note herein authorized, and the balance to refund treasury for previous expenditures upon improvements to plant.

Held. That Ojai Improvement Company be authorized to lease water system to Ojai Power Company.

Merle J. Rogers, for Applicants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this application the Commission is requested—

1. To authorize Arthur W. Sloan and Frank Rosebrough to sell to Ojai Power Company a water system owned by these two individuals and operated under the name of the Nordhoff Water Company. As consideration for this transfer, Ojai Power Company has agreed to pay \$500.00 cash and to give a note at face value of \$2,500.00 secured by a mortgage on the real property transferred.

2. To declare that public convenience and necessity require the exercise by Ojai Power Company of the rights and privileges granted to said company by the board of supervisors of Ventura County, in its Ordinance No. 185, adopted April 5, 1913. By this ordinance Ojai

Power Company is granted the right to construct, maintain, and operate a water system upon certain public highways in the county of Ventura.

3. To authorize Ojai Power Company to issue its capital stock of the par value, \$10,000.00, in order to obtain the money necessary to purchase the system of the Nordhoff Water Company, and also to make certain extensions and betterments in said system.

4. To authorize Ojai Improvement Company to lease to Ojai Power Company a certain water system.

Nordhoff is an unincorporated town with approximately 300 inhabitants, and situated about 15 miles north of the city of Ventura, in Ventura County, California.

Ojai Power Company was incorporated in July, 1912, with an authorized capital stock of \$50,000.00, divided into 500 shares of the par value of \$100.00 each. This company has already been authorized by this Commission to issue its capital stock of the par value of \$25,000.00 for the purpose of constructing an electric light system to supply the residents of Nordhoff and the Ojai Valley. (See Volume 1, California Railroad Commission's Decisions, page 690.)

This company now desires to undertake the business of serving water to the town of Nordhoff and vicinity. It appears that there is already a small water system in this territory and it is the desire of the Ojai Power Company to purchase this system. This system is owned by two individuals, Arthur W. Sloan and Frank Rosebrough.

In January of this year these two individuals executed a deed purporting to convey their water system to the Ventura Abstract Company. This deed was executed with innocent disregard for the provisions of section 51 of the Public Utilities Act, which provides that the consent of this Commission must be obtained to the sale of the property of a public utility, necessary or useful in the performance of its duties to the public, and that every sale made other than in accordance with the order of the Commission authorizing the same shall be void. It is clear, therefore, that the deed purporting to convey this property to the Ventura Abstract Company is of no legal effect, and that the title to this system still rests with the individual owners.

The property comprising the system to be transferred to Ojai Power Company is described at length in exhibit "D" attached to the application, this exhibit being a copy of the deed purporting to convey this property to the Ventura Abstract Company. The property to be transferred may be summarized as follows:

- 1 acre water-bearing land;
- 1 500-barrel tank and tower;
- 2 12-horsepower gas engines;

5,280 feet of 3-inch wire wrapped redwood pipe;
 5,390 feet of 2-inch wire pipe;
 2,145 feet of 1½-inch wire pipe;
 2,500 feet of 1-inch wire pipe.

In consideration of the transfer of this water system by the present individual owners to Ojai Power Company, the latter company has agreed to pay \$500.00 in cash and to give a note of the face value of \$2,500.00, this note to mature November 24, 1915, and to bear interest at the rate of 8 per cent per annum to be secured by the mortgage upon all the real property which is included in the property transferred.

I believe that public convenience will be subserved by permitting this transfer to be made under the conditions herein specified, and I accordingly recommend that an order be made granting this portion of the application.

Ojai Power Company has been granted a franchise by the board of supervisors of Ventura County, in Ordinance No. 175, adopted April 5, 1913. By this franchise Ojai Power Company is given the right to construct and maintain a water system upon the highways in and about Nordhoff. I recommend that this Commission issue a certificate declaring that public convenience and necessity require the exercise of rights and privileges granted to Ojai Power Company under this franchise.

Ojai Power Company has requested the authority of the Commission to issue its capital stock of the par value of \$10,000.00. Ojai Power Company has an authorized capital of \$50,000.00, of which stock of the par value of \$25,000.00 has been issued. This company was formed and its stock purchased by residents of Nordhoff and vicinity. The stock already sold was sold at par, and the company expects to get the par value of the additional stock which it desires to issue. The proceeds derived from the sale of the additional \$10,000.00 par value of stock, if authorized to be issued, are to be expended:

| | |
|---|-------------|
| 1. Purchase of water system of the Nordhoff Water Company, including the refunding of the note given in exchange therefor---- | \$3,000 00 |
| 2. Reimbursement of the treasury of Ojai Power Company for moneys expended for improvements: | |
| 7,000 feet 4-inch pipe----- | \$2,450 00 |
| 1 1,000-barrel iron tank----- | 550 00 |
| 1 settling tank----- | 325 00 |
| 1 Dean pump----- | 900 00 |
| 1 12-horsepower motor and installation----- | 375 00 |
| Buildings, extra fittings, tools, etc.----- | 500 00 |
| | 5,100 00 |
| 3. Meters and service connections as needed----- | 1,900 00 |
| Total ----- | \$10,000 00 |

Ojai Improvement Company has requested permission to execute a certain lease to Ojai Power Company. A copy of this lease is attached to the opinion and order in this proceeding and marked Exhibit "A."

Ojai Improvement Company has been in the business of improving and selling real estate in the neighborhood of Nordhoff and is the owner of a tourist resort, known as the Foot Hills Hotel. This company installed a water system, receiving water from Stewart's Canyon and piping the same into the village of Nordhoff.

In the proposed lease the Ojai Power Company, for a monthly rental of \$50.00, assumes control of that portion of the water system of the Ojai Improvement Company, supplying about 62 consumers in Nordhoff. Ojai Power Company is also given the right to use surplus waters flowing in Stewart's Canyon after the Foot Hills Hotel and certain customers of the Ojai Improvement Company in Foot Hills Park and Ojai Park are supplied. The lease is to extend for a period of five years. While the form of this lease is not entirely satisfactory and must not be taken as a precedent in any other case, I believe that considering all the circumstances surrounding the present application this lease should be approved.

I submit herewith the following form of order:

ORDER.

The above entitled application having been filed with the Commission and a public hearing having been held thereon and the Commission being duly advised in the premises, and being of the opinion that the purposes for which the Ojai Power Company desires to issue stock and a promissory note are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Arthur W. Sloan and Frank Rosebrough be and they hereby are authorized to sell to Ojai Power Company that certain water system owned by said individuals and operated under the name of the Nordhoff Water Company, the property to be transferred being described in that deed of transfer attached to the application in this proceeding and marked Exhibit "D";

And it is further ordered that Ojai Power Company be and it hereby is authorized to issue a promissory note of the face value of \$2,500.00, payable not later than November 24, 1915, at a rate of interest not to exceed 8 per cent, said note to be given in part payment for the water system of the Nordhoff Water Company herein authorized to be transferred, said note to be secured by a deed of mortgage, executed by Ojai Power Company, and covering all of the real property included in the water system of the Nordhoff Water Company herein authorized to be transferred; provided, however, that said mortgage shall not be

executed until a form thereof has been filed with and approved by this Commission.

It is further ordered that Ojai Power Company be and it hereby is authorized to issue 100 shares of its capital stock of the aggregate par value of \$10,000.00 upon the following conditions, and not otherwise, to wit:

1. The stock herein authorized to be issued shall be issued so as to net Ojai Power Company the par value thereof.

2. Proceeds derived from the sale of the stock herein authorized to be issued shall be expended for the following purposes:

| | |
|---|----------------|
| (a) Purchase of water system of the Nordhoff Water Company including the refunding of the note of the face value of \$2,500 given in part payment therefor----- | \$3,000 00 |
| (b) Reimbursement of the treasury of the Ojai Power Company for moneys expended for improvements: | |
| 7,000 feet 4-inch pipe----- | \$2,450 00 |
| 1 1,000 barrel iron tank----- | 550 00 |
| 1 settling tank----- | 325 00 |
| 1 Dean pump----- | 900 00 |
| 1 12-horsepower motor and installation----- | 375 00 |
| Buildings, extra fittings, tools, etc.----- | 500 00 |
| | <hr/> 5,100 00 |
| (c) Meters and service connections as needed----- | 1,900 00 |
| | <hr/> |
| Total ----- | \$10,000 00 |

It is further ordered that Ojai Improvement Company be and it hereby is authorized to execute to Ojai Power Company that certain lease, a copy of which is attached to the order herein and marked Exhibit "A."

Neither the price paid for the property of the Nordhoff Water Company herein authorized to be transferred, nor the rental of the property of the Ojai Improvement Company herein authorized to be leased, shall be taken before this Commission, or any other public body, as representing for rate-fixing or other purposes the value of the property transferred or leased.

The authority herein given Ojai Power Company, to issue stock and to issue a promissory note, shall apply only to such stock or to such note issued by Ojai Power Company on or before July 1, 1914.

Ojai Power Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds derived from the sale of the stock and note herein authorized to be issued, and on or before the twenty-fifth day of each month shall make verified reports to the Commission stating the amount of stock and all notes issued during the previous months, the terms and conditions of such issue, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made part of this order.

This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act has been paid.

The foregoing opinion and order are hereby ordered approved and filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

EXHIBIT "A."

This lease and agreement made this 15th day of April, 1913, by and between Ojai Improvement Company, a corporation, first party, and Ojai Power Company, corporation, second party (each of said corporations being organized under the laws of the State of California and doing business at Nordhoff, California, *witnesseth*:

That said first party, in consideration of the covenants and agreements herein contained, hereby leases to the said second party for a term of five (5) years from January 1, 1913, the following property, to wit:

1. That certain reservoir known as the "town reservoir," having a capacity of about one thousand barrels, together with the parcel of land one hundred (100) feet square situate at the northwest portion of lot 5 of the Wolfe Tract at Nordhoff, California (as said lot 5 is designated and delineated upon the map recorded in Book 3 of Miscellaneous Records at page 10 in the office of the county recorder of Ventura County), upon which said reservoir is situate.

2. All of the pipe and pipe lines running south, west and east from said reservoir and all of the distributing system from said reservoir extending south, west and east therefrom and in the town of Nordhoff.

3. All of the water and water rights and rights to water of said first party in or arising from what is known as Stewart Canyon, subject, however, to the limitation on the use of said water hereinafter stated; it being expressly understood that the rights of second party to the water from said Stewart Canyon is limited to the surplus water thereof after the Foot Hills Hotel and grounds and customers present and future of first party, in Foot Hills Park, and Ojai Park north of the south line of Virginia Lopez parcel (and said line extended westerly) as said parcel is described in Deed recorded in Book 39 of Deeds at page 423 in the office of the county recorder of said Ventura County, are supplied.

It is also expressly understood that first party shall at all times have the right to do any work it may desire for the development of water in said Stewart Canyon and that any water so developed shall inure to the benefit of said parties hereto under the terms of this lease.

And the parties hereto mutually agree to and with each other as follows:

That said first party shall furnish and lay a water conduit having a capacity of a 2-inch pipe line and extending from the wood pipe of first party about fifty feet north of the Foot Hills Hotel to junction with present 1½-inch line (provided that in the event said 1½-inch line shall prove of insufficient capacity to carry and deliver all of said surplus water to said town reservoir, first party shall extend said 2-inch line on to the said town reservoir) and shall furnish a continuous flow of water from said Stewart Canyon to the capacity of said reservoir as depleted by distribution hereunder, or to the extent of said water; provided, however, that first party shall at all times have the right to retain and the use of said water from Stewart Canyon sufficient thereof to supply the said Foot Hills Hotel and grounds and the present and future customers of first party in Foot Hills Park and said portion of Ojai Park; it being expressly understood that said first party shall be under no obligation to supply any of said water to said town reservoir during any season when the water in said Stewart Canyon is not more than sufficient to supply said Foot Hills Hotel and grounds and said customers of first party, and it being also understood that first party shall have the right at all times to retain not less than eight (8) feet in depth of water in the Foot Hills reservoir.

Second party agrees that it will furnish and lay a 4-inch pipe line extending from the wells of what was formerly known as the Berry water plant at Nordhoff to said town reservoir and will also furnish and erect at or near said reservoir a water tank having a capacity of a thousand barrels; that it will pump water to said town reservoir and tank for the purpose of supplying the present customers of first party situate south, east and west of said town reservoir (other than those in said portion of Oak Park north of said Lopez parcel), whenever said supply from Stewart Canyon is insufficient therefor.

It is also understood and agreed that second party shall assume and have full control and management of said town reservoir and said distributing system south, east and west therefrom and that second party shall pay to first party during said term as rental hereunder the sum of fifty dollars (\$50.00) per month, said rental to be paid within the first fifteen days of each calendar month for the next preceding calendar month, and in the event second party shall fail to pay said rental, first party may re-enter into possession of the property and rights hereby leased and may terminate this lease.

At the expiration or sooner termination of said term second party shall have the right to remove said 4-inch pipe line and said thousand-barrel tank and any and all other tanks, structures, or equipment which it may place upon said reservoir site, and shall maintain said personal property and the said pipe line from near the Foot Hills Hotel to said town reservoir in condition for use, and shall return all property hereby leased in as good condition as the same now is or may be put in, reasonable wear and use thereof excepted.

Second party agrees that it will supply with water the present customers of first party in said town of Nordhoff during said term, it being understood that second party at any time when said supply of water from said Stewart Canyon is sufficient to supply said customers of first party south, east and west of said reservoir site, shall have the right to supply said customers by any other available method of distribution, and upon so supplying said customers with water shall be relieved during such time of the obligation to pump water to said town reservoir.

It is further agreed that second party shall repay first party for amount incurred for pumping water during the month of January, 1913, amounting to \$31.50.

It is also understood that this lease and agreement is made subject to the approval of the Honorable Railroad Commission of the State of California and it is mutually agreed that the parties hereto shall apply to said Railroad Commission for an order authorizing this lease and agreement, and approving the terms hereof.

In witness whereof the parties hereto, pursuant to several resolutions of their respective boards of directors, have caused these presents to be executed in their respective corporate names, under their respective corporate seals, and as their respective corporate acts and deeds, the day and year first above written.

OJAI IMPROVEMENT COMPANY,

[SEAL.]

By H. WALDO FORESTER, its President.

By JOHN J. BURKE, its Secretary.

OJAI POWER COMPANY,

[SEAL.]

By JOHN J. BURKE, its President.

By EDWARD L. WIEST, its Secretary.

And the parties hereto mutually agree to and with each other as follows:

That said first party shall furnish and lay a water conduit having a capacity of a 2-inch pipe line and extending from the wood pipe of first party about fifty feet north of the Foot Hills Hotel to junction with present 1½-inch line (provided that in the event said 1½-inch line shall prove of insufficient capacity to carry and deliver all of said surplus water to said town reservoir, first party shall extend said 2-inch line on to the said town reservoir) and shall furnish a continuous flow of water from said Stewart Canyon to the capacity of said reservoir as depleted by distribution hereunder, or to the extent of said water; provided, however, that first party shall at all times have the right to retain and the use of said water from Stewart Canyon sufficient thereof to supply the said Foot Hills Hotel and grounds and the present and future customers of first party in Foot Hills Park and said portion of Ojai Park; it being expressly understood that said first party shall be under no obligation to supply any of said water to said town reservoir during any season when the water in said Stewart Canyon is not more than sufficient to supply said Foot Hills Hotel and grounds and said customers of first party, and it being also understood that first party shall have the right at all times to retain not less than eight (8) feet in depth of water in the Foot Hills reservoir.

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At the expiration or sooner termination of said term second party shall have the right to remove said 4-inch pipe line and said thousand-barrel tank and any and all other tanks, structures, or equipment which it may place upon said reservoir site, and shall maintain said personal property and the said pipe line from near the Foot Hills Hotel to said town reservoir in condition for use, and shall return all property hereby leased in as good condition as the same now is or may be put in, reasonable wear and use thereof excepted.

Second party agrees that it will supply with water the present customers of first party in said town of Nordhoff during said term, it being understood that second party at any time when said supply of water from said Stewart Canyon is sufficient to supply said customers of first party south, east and west of said reservoir site, shall have the right to supply said customers by any other available method of distribution, and upon so supplying said customers with water shall be relieved during such time of the obligation to pump water to said town reservoir.

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It is also understood that this lease and agreement is made subject to the approval of the Honorable Railroad Commission of the State of California and it is mutually agreed that the parties hereto shall apply to said Railroad Commission for an order authorizing this lease and agreement, and approving the terms hereof.

In witness whereof the parties hereto, pursuant to several resolutions of their respective boards of directors, have caused these presents to be executed in their respective corporate names, under their respective corporate seals, and as their respective corporate acts and deeds, the day and year first above written.

OJAI IMPROVEMENT COMPANY,

[SEAL.]

By H. WALDO FORESTER, its President.

By JOHN J. BURKE, its Secretary.

OJAI POWER COMPANY,

[SEAL.]

By JOHN J. BURKE, its President.

By EDWARD L. WIEST, its Secretary.

DECISION No. 923.

RED LINE TOURISTS AGENCY

vs.

SOUTHERN PACIFIC COMPANY AND UNION TRANSFER
COMPANY.

Case No. 414.

Decided August 30, 1913.

Complainant alleges discrimination on the part of defendant as to its contract with the Union Transfer Company, permitting said transfer company the exclusive right of soliciting and checking baggage upon and for its trains and steamers. *Held*, Railroad has right to make exclusive contract for soliciting of baggage on trains. Complaint dismissed.

Lloyd S. Ackerman, for Complainant.

Geo. D. Squires and *C. W. Durbrow*, for Southern Pacific Company.

Frank C. Cleary, for Union Transfer Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This proceeding raises the question whether a railway company may enter into a contract with one transfer and baggage company giving to that company the exclusive right to solicit baggage on the trains, boats, depot grounds and other premises of the railway company, and to check baggage at residences, hotels and other places for delivery to the carrier.

The complaint was filed on June 19, 1913. The complaint alleges in effect that the complainant is a California corporation engaged in the baggage and transfer business; that the defendant Southern Pacific Company is a common carrier of persons and property and that the defendant Union Transfer Company is a California corporation engaged in the business of transporting baggage and other personal property; that on the ninth day of December, 1912, the board of supervisors of the city and county of San Francisco passed Ordinance No. 2101, new series, providing in part that no person shall solicit patronage for any hotel, vehicle, or other business upon any railroad train, steamboat, or vehicle within the corporate limits of the city and county of San Francisco without having first secured permission in writing so to do from the owner or lessee of such railroad, steamboat, or other vehicle; that a similar ordinance is in effect in Oakland, California; that the Southern Pacific Company has entered into a contract with the Union

Transfer Company by which the latter company is given the exclusive right to solicit baggage and transfer business on the trains and boats of the Southern Pacific Company; that complainant has requested the written permission of the Southern Pacific Company to allow its agents and employees to solicit baggage and transfer business on the boats and trains of the railway company, but that the latter has declined to accord this privilege; that complainant claims the same right as said Union Transfer Company to solicit baggage and transfer business from passengers on the boats and trains of the Southern Pacific Company, and that the railway company's refusal to grant this privilege is an unlawful discrimination against complainant and in favor of Union Transfer Company in violation of section 2170 of the Civil Code of this State. Complainant in its prayer asks that the contract between the Southern Pacific Company and the Union Transfer Company be adjudged to be discriminatory and unlawful, that the Southern Pacific Company be required to afford to the complainant equal facilities with the Union Transfer Company for soliciting baggage and transfer business on the boats and trains of the Southern Pacific Company, that the defendant be adjudged to have wilfully violated section 2170 of the Civil Code of this State, and that the complainant have judgment against the defendants in the sum of \$500.00.

The answer of the Southern Pacific Company was filed on July 3, 1913. The answer in effect denies that the Southern Pacific Company has violated section 2170 of the Civil Code; denies that complainant is entitled to solicit baggage and transfer business on the defendant's boats and trains or to enter thereupon in any other capacity than as a passenger; alleges that the complaint does not state a cause of action against the defendant; admits that the railway company has entered into an exclusive contract with the Union Transfer Company, and alleges that said contract is a valid exercise of the railway company's rights, and that it was entered into for the purpose of facilitating the convenience and comfort of the Southern Pacific Company's passengers arriving at San Francisco, and that it is in all respects calculated to promote the public safety and convenience, and that the public safety and convenience would not be promoted by executing any contract or granting any privilege to complainant.

On the same day the defendant Union Transfer Company filed its answer, adopting the answer of the Southern Pacific Company, admitting that it has entered into an exclusive contract with the Southern Pacific Company and alleging that said contract is lawful.

The hearing was held in San Francisco on August 12, 1913. It was agreed that the contract between the Southern Pacific Company and the Union Transfer Company might be considered as being in evidence.

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THELEN, Commissioner.

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Transfer Company by which the latter company is given the exclusive right to solicit baggage and transfer business on the trains and boats of the Southern Pacific Company; that complainant has requested the written permission of the Southern Pacific Company to allow its agents and employees to solicit baggage and transfer business on the boats and trains of the railway company, but that the latter has declined to accord this privilege; that complainant claims the same right as said Union Transfer Company to solicit baggage and transfer business from passengers on the boats and trains of the Southern Pacific Company, and that the railway company's refusal to grant this privilege is an unlawful discrimination against complainant and in favor of Union Transfer Company in violation of section 2170 of the Civil Code of this State. Complainant in its prayer asks that the contract between the Southern Pacific Company and the Union Transfer Company be adjudged to be discriminatory and unlawful, that the Southern Pacific Company be required to afford to the complainant equal facilities with the Union Transfer Company for soliciting baggage and transfer business on the boats and trains of the Southern Pacific Company, that the defendant be adjudged to have wilfully violated section 2170 of the Civil Code of this State, and that the complainant have judgment against the defendants in the sum of \$500.00.

The answer of the Southern Pacific Company was filed on July 3, 1913. The answer in effect denies that the Southern Pacific Company has violated section 2170 of the Civil Code; denies that complainant is entitled to solicit baggage and transfer business on the defendant's boats and trains or to enter thereupon in any other capacity than as a passenger; alleges that the complaint does not state a cause of action against the defendant; admits that the railway company has entered into an exclusive contract with the Union Transfer Company, and alleges that said contract is a valid exercise of the railway company's rights, and that it was entered into for the purpose of facilitating the convenience and comfort of the Southern Pacific Company's passengers arriving at San Francisco, and that it is in all respects calculated to promote the public safety and convenience, and that the public safety and convenience would not be promoted by executing any contract or granting any privilege to complainant.

On the same day the defendant Union Transfer Company filed its answer, adopting the answer of the Southern Pacific Company, admitting that it has entered into an exclusive contract with the Southern Pacific Company and alleging that said contract is lawful.

The hearing was held in San Francisco on August 12, 1913. It was agreed that the contract between the Southern Pacific Company and the Union Transfer Company might be considered as being in evidence.

The attorneys for the respective parties thereupon presented argument on the question of law as to whether or not the complainant is entitled to relief. Each side presented authorities, whereupon the matter was submitted.

The contract between the Southern Pacific Company and the Union Transfer Company was entered into on August 17, 1906. Its terms, in so far as material to this inquiry, are as follows: The railway company leases to the transfer company for ten years, beginning January 1, 1907, the exclusive right to send agents out from San Francisco, Oakland, or Alameda as far as necessary within California to meet all incoming trains or steamers for the purpose of soliciting transportation of passengers and baggage from said trains and steamers on their arrival in the city of San Francisco, and also the sole right to check baggage at hotels, residences, and the transfer company's offices in San Francisco for all outgoing trains and steamers of the railway company; the transfer company agrees to pay the railway company, in consideration of said privilege, certain annual payments varying from \$16,500.00 for the year ending December 31, 1907, to \$22,500.00 for the year ending December 31, 1916; the agents and employees of the transfer company while receiving and checking baggage may do so only under the rules of the railway company; the transfer company agrees to make immediate delivery to the railway company at its baggage rooms of all baggage received and checked and to make immediate delivery of passengers and baggage immediately after the arrival of the train or boat upon which said passengers and baggage are carried; the charges for the transfer of baggage shall not exceed 50 cents for each trunk and 25 cents for each satchel or hand grip, except as to certain outlying territory as to which an additional charge of 25 cents may be collected by the transfer company; the transfer company guarantees the safe keeping of all baggage received by it, and assumes all responsibility for loss or damage to such baggage while in its possession; the transfer company agrees that its agents and employees when soliciting from passengers shall do so in an orderly and respectful manner; the transfer company guarantees the proper and orderly conduct of its agents and employees, and agrees that the railway company may eject any agent or employee who has violated any rule or refused to obey any requirement of the railway company, and agrees to dismiss immediately any employee when demanded by the railway company; the transfer company agrees that its agents and employees shall not solicit patronage for any hotel; the transfer company agrees that its agents and employees while on the trains, steamers, or grounds of the railway company shall wear a neat uniform with an appropriate cap; the transfer company agrees to provide and keep in service a sufficient number of carriages or coupés, but not less than six hacks, for the

accommodation of passengers arriving on the railway company's trains or steamers in the city of San Francisco; and the transfer company agrees that it will give the railway company a bond for the faithful performance of its obligations. The agreement contains certain other provisions involving the relationship between the railway company and the transfer company, but of no particular interest to the traveling public.

As hereinbefore stated, the question in this case is whether or not the railway company may grant to a baggage and transfer company the exclusive right to solicit business upon its trains, boats and grounds and to check baggage from residences, hotels, and other points of origin.

I shall now consider such authorities as I have found which seem to have bearing on this question, taking up first the federal authorities and then referring to the decisions of the state courts.

The leading case upon this question is *Donovan vs. Pennsylvania Company*, 199 U. S. 279, decided on November 27, 1905. This was an action by the Pennsylvania Company to enjoin the defendants, who were hackmen and expressmen in the city of Chicago, from soliciting incoming passengers and baggage in plaintiff's depot in the city of Chicago and on the sidewalks surrounding the same, on the allegation, among others, that the defendants by reason of their number and their loud and boisterous conduct were interfering with and annoying plaintiff's passengers. The Pennsylvania Company had entered into an exclusive contract with the Parmelee Transfer Company similar to the contract between the Southern Pacific Company and the Union Transfer Company. The Supreme Court affirmed the decree of the United States Circuit Court of Appeals enjoining the entry of defendants into the railway company's passenger station for the purpose of soliciting the custom of the incoming passengers for cabs, carriages, express wagons or hotels, and ordering them to desist from congregating upon the sidewalk in front of or adjacent to the entrances to said passenger station and from there soliciting the custom of passengers so as to interfere with the ingress and egress of passengers and employees.

After referring to the fact that the railway company holds the legal title to its property, and that it is entitled to use such property to the best advantage of the public and of itself, and that it is the duty of the company to see that passengers are not annoyed, disturbed, or obstructed in the use of its passenger depot, the court refers to the railway company's exclusive contract with the Parmelee Company, at page 295, as follows:

"We can not say that that arrangement was either unnecessary, unreasonable or arbitrary; on the contrary, it is easy to see how, in a great city, and in the constantly crowded railway station, such an arrangement might promote the comfort and convenience

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of passengers arriving and departing, as well as the efficient conduct of the company's business. The record does not show that the arrangement referred to was inadequate for the accommodation of passengers. But if inadequate, or if the transfer company was allowed to charge exorbitant prices, it was for passengers to complain of neglect of duty by the railroad company, and for the constituted authorities to take steps to compel the company to perform its public functions with due regard to the rights of passengers."

Referring then to the contention of the defendants that they should have the same rights as were accorded by the special agreement with the Parmelee Transfer Company, the court at page 296 says:

"This contention, when applied to the present case, can not be sustained. The railroad company was not bound to accord this particular privilege to the defendants simply because it had accorded a like privilege to the Parmelee Transfer Company; for it had no contractual relations with the defendants, and owed them, as hackmen, no duty to aid them in their special calling. The defendants did not have, or profess to have, any business of their own with the company. In meeting their obligations to the public, whatever the nature of those obligations, the defendants could use any property owned by them, but they could not, of right, use the property of others against their consent. In maintaining the highway, under the authority of the state, the first and paramount obligation of the railroad company was, as we have already said, to consult the comfort and convenience of the public who used that highway. To that end it could use all suitable means that were not forbidden by law. In its discretion it could accept the aid or stipulate for the services of others. But, after providing fully for the wants of passengers and shippers, it did not undertake, expressly or by implication, to so use its property as to benefit those who had no business or connection with it."

Referring then to the argument that the exclusive arrangement with the Parmelee Company was void as constituting a monopoly, the court continues as follows:

"In a real, substantial, legal sense, that arrangement can not be regarded as a monopoly in the odious sense of that word, nor does it involve the improper use by the railroad company of its property. That arrangement is to be deemed, not unreasonably, the means devised for the convenience of passengers and of the railroad company, and as involving such use by the company of its property as is consistent with the proper performance of its public duties and ownership of the property in question. If the company, by such use of its property, also derived pecuniary profit for itself, that was a matter of no concern to the defendants, and gave them no ground of complaint."

The complainant in the present proceeding admits that under the decision of the Supreme Court of the United States in the *Donovan*

case it can no longer be contended that an exclusive arrangement such as that between the Southern Pacific Company and the Union Transfer Company is void as being opposed to public policy or as creating an unlawful monopoly. The complainant, however, contends that the agreement is nevertheless unlawful by reason of specific statutory provisions in this State in the matter of discrimination by common carriers. The Supreme Court in the *Donovan* case draws attention to the fact that no statute of Illinois applies to the matter, and hence decides the question on the general principles of law applicable to the situation.

Consequently it becomes necessary to consider the effect of the statutes of this State on the question now pending. Before doing so, however, I desire to draw attention to the decision of the Interstate Commerce Commission on a similar question to be found in *Cosby vs. Richmond Transfer Company*, decided on January 15, 1912. In that case it appeared that the defendant railroads had granted to the Richmond Transfer Company the exclusive privilege of soliciting business on their trains and in their depots in Richmond, Virginia, and of issuing baggage checks at the residences of prospective passengers. Cosby, the owner of a baggage transfer business in Richmond, complained as a citizen to the Interstate Commerce Commission that the rates charged for the transfer of baggage in the city of Richmond were unreasonable, and contended that the Interstate Commerce Commission had jurisdiction to fix the rates charged by the Richmond Transfer Company on the ground that said company was engaged in "a service in connection with the receipt and delivery of property transported," as those words are used in section 1 of the Interstate Commerce Act. Mr. Commissioner Lane in rendering the report of the Commission held that while the language of section 1 was broad, the section could not properly be interpreted to bring such agencies as the Richmond Transfer Company under the control of the Interstate Commerce Commission, and also that the service performed by the transfer company is not one which the railroad undertook to perform. After pointing out that if the railroad company itself undertook to make delivery of passengers' baggage at residences for the rate of fare stated in its tariff the Interstate Commerce Commission would have jurisdiction over the same, Mr. Commissioner Lane uses the following language at page 75 of volume 23 of the Interstate Commerce Commission's reports:

"Does it follow, however, from the fact that the railroad company makes this exclusive contract under which the soliciting of baggage on its trains and within its depots is granted to one agent, that this is an assumption by the railroad of a new service or the recognition of an obligation to perform such a service subsequent to the delivery of the baggage at its own depot? If there was a duty imposed by law upon the railroad to provide such service, as

has been aforesaid, the interposition of an agent would not withdraw the carrier in providing such services from governmental control. But there is no such duty arising either under statute, common law or custom. The carrier has performed what is required of it when it accepts baggage at its depot, transports it and makes delivery at destination upon its own terminal."

Referring to the alleged violation of the provisions of section 3 of the Interstate Commerce Act, referring to undue or unreasonable preferences, Mr. Commissioner Lane points out at page 77 that no public duty is owed by the railway companies to the complainant in his capacity as a transfer agent, and then concludes as follows:

"It is as much beyond our power to order a railroad to give the Cosby Transfer an opportunity to bid against the Richmond Transfer Company for the privilege of soliciting on trains as it is beyond our power to compel a railroad to place its fruit vendors' privilege up at auction, for neither one is *transportation* under the act, and over neither one have we jurisdiction."

While there has been an apparent conflict of authority between the decisions of various state courts on questions analogous to the one under consideration, the later decisions nearly all support the conclusion reached by the United States Supreme Court in the *Donovan* case and by the Interstate Commerce Commission in the *Cosby* case. In view of the decision of the Supreme Court of the United States in the *Donovan* case, it will not be necessary to consider the state decisions, except in so far as they may throw light on the effect which statutory provisions may have on this question.

I shall now consider the effect, if any, which constitutional or statutory provisions in this State may have on this question. Section 21 of article XII of the constitution of this State, as amended on October 10, 1911, provides in part as follows:

"No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state."

Section 17 (a), 2, of the Public Utilities Act provides in part as follows:

"Nor shall any common carrier * * * extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons."

It seems clear that the foregoing constitutional and statutory provisions do not apply to the question now before this Commission. Both provisions refer to the transportation of passengers and property by the railroad company, and do not apply to the transportation by a

baggage or transfer company from or to the railroad company's depot, at which point, as indicated by Mr. Commissioner Lane in the *Cosby* case, the railroad company's duty ends or begins, as the case may be.

The complainant does not contend that these constitutional and statutory provisions apply to its case, but relies entirely on section 2170 of the Civil Code, reading in part as follows:

“A common carrier must not give preference in time, price or otherwise, to one person over another.”

Complainant contends that the general language of this sentence covers the relationship between a railroad company and a baggage and transfer agency; that if a railroad company gives to one baggage and transfer company the right to solicit business upon its property and to check baggage, it must give a similar privilege to all other baggage and transfer companies applying therefor.

It is evident that section 2170 of the Civil Code can not be construed so broadly as to mean that a common carrier can not in any of its dealings give any preference to one person over another. If this construction were to be given to the section, it would be impossible for a railroad company to buy supplies for its commissary or ties for its track or stationery for its office use in any way in which a preference might be held to be given to one firm or company or individual as against another. It seems clear that this section must be interpreted in the light of the railroad company's duty to the public, and that it was not intended to apply to any transactions of a railroad company other than those performed in connection with the carrier's duty to the public. As pointed out by Mr. Commissioner Lane in the *Cosby* case, there is no duty imposed by law upon the railroad company to have the passengers' baggage transported to or from the baggage depot. As Mr. Commissioner Lane says:

“There is no such duty arising either under statute, common law or custom. The carrier has performed what is required of it when it accepts baggage at its depot, transports it and makes delivery at destination upon its own terminal.”

It may be that the carrier, if it so desires, may hold itself out to the public as taking care of its baggage to and from its ultimate destination and that thereafter the carrier will be under as much of a duty to the public in that connection as it now is to transport persons and property on its trains and vessels. No such question arises in this case for the reason that there is nothing to show that the Southern Pacific Company has held itself out as offering to take care of baggage between its grounds and the residences, hotels or other places from or to which it is destined. I am accordingly of the opinion that section 2170 of the Civil Code does not apply to the relationship between the railroad

and the baggage or transfer company, and that the railroad company has the right to enter into an exclusive contract with a single baggage and transfer company without being obliged to enter into similar contracts with other baggage and transfer companies, subject to the qualifications announced by the Supreme Court in the *Donovan* case and by the Interstate Commerce Commission in the *Cosby* case.

There is much reason and common sense in support of this conclusion. The solicitation of passengers on incoming trains and vessels by a number of competing baggage agents would be an intolerable nuisance, and the public should not be subjected thereto unless it is absolutely necessary under the law. The solicitation of passengers and baggage by a single company, if the agents are courteous and considerate and the company is responsible, may be a convenience to the passengers, but the moment the field is thrown open to competing companies this convenience will be turned into an annoyance to which the passengers ought not to be subjected.

Before concluding I desire to refer to two recent cases bearing on the question whether statutory provisions against discrimination by common carriers should be construed to include the relationship between a common carrier and a baggage and transfer company.

In *Depot Carriage and Baggage Company vs. Kansas City Terminal Railway Company*, 190 Fed. 212, decided on July 7, 1911, one baggage company insisted that under a Missouri statute against discrimination it had the same rights as any other person or company to maintain a booth and stand within a railway depot for the transaction of its business and the solicitation of the same. The railway company had originally entered into an exclusive contract with one baggage company and thereafter canceled that contract and entered into an exclusive contract with another company. Referring to the question whether the railroad company had the right to make an exclusive contract with a single concern Judge Smith McPherson, after referring to the decision of the Supreme Court of the United States in *The Express Cases*, 117 U. S. 1, and *Donovan vs. Pennsylvania Company*, 199 U. S. 279, says at page 214:

"Transportation companies, such as express or carriage companies, do not have the rights, which must be enjoyed by the public at large of being allowed egress and ingress at the railway stations. The railway company has the right to make the one contract with one concern to serve the general public at fixed and certain and reasonable charges for the transportation of persons and baggage from one depot to another, and from depots to hotels and residences and business houses. Under these decisions the question is no longer debatable."

It thus appears that notwithstanding the Missouri statute against discrimination the Circuit Court in the foregoing case reached the same conclusion which was reached by the United States Supreme Court in the *Donovan* case, *supra*.

In *Dingman vs. Duluth, etc., Railroad Company*, 130 N. W. 24, decided on February 1, 1911, the Supreme Court of Michigan held that sections 62 to 66 of the Compiled Laws of 1897 requiring all railroad companies to grant equal facilities for the transportation of freight and passengers without discrimination in favor of any individual or company, does not prevent a railroad company from making an agreement with a person engaged in transferring passengers, by which he may enter the passenger trains and solicit passengers and baggage to the exclusion of all others engaged in the same business.

Referring to the result which would follow if the agents of several competing companies were allowed to solicit, the court says at page 25 of the Reporter:

"But suppose the railroad, instead of refusing to carry all, permitted two or more baggage agents upon its trains. The conditions which would result from such a course would at once become intolerable. Rival agents would beseech the passenger for his business to his infinite annoyance, and when he finally made a selection he would have no means of knowing that he had chosen either a competent or a responsible agency for its transaction."

The court then continues as follows:

"These considerations certainly militate most strongly against such a construction of the statute as would result in harm or inconvenience to the general public, unless that construction is forced upon us by plain and unequivocal language or pertinent judicial determination. Neither, in my opinion, compels us to adopt the plaintiff's contention."

The Supreme Court accordingly affirms the judgment of the lower court in favor of the railway company.

On the authorities hereinbefore quoted and on the reason and common sense of the situation I find that there is no merit in the complaint, and that it does not state a cause of action, and recommend that it be dismissed.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and it appearing that there is no merit in the complaint, and that the complaint does not state a cause of action,

It is hereby ordered that said complaint be and the same is hereby dismissed without leave to amend.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 924.

IN THE MATTER OF THE APPLICATION OF PAJARO VALLEY CONSOLIDATED RAILROAD COMPANY FOR AN ORDER AUTHORIZING IT TO LEASE FROM WATSONVILLE RAILWAY AND NAVIGATION COMPANY PART OF THE LATTER'S TRACKS FOR CERTAIN PURPOSES AND ON CERTAIN CONTINGENCIES.

Application No. 698.

Decided August 30, 1913.

Application of the Watsonville Railway and Navigation Company to lease a certain portion of its line of railway to the Pajaro Valley Consolidated Railroad Company, granted.

A. L. Whittle, for Pajaro Valley Consolidated Railroad Company.

E. Stoltz, for Watsonville Railway and Navigation Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Pajaro Valley Consolidated Railroad Company and Watsonville Railway and Navigation Company having applied to this Commission for permission to execute a certain lease, attached to the application in this proceeding and marked Exhibit "A," under the terms of which lease the Pajaro Valley Consolidated Railroad Company is given the right, upon certain conditions, to operate its own trains upon the line of the Watsonville Railway and Navigation Company from the point of junction of these two roads near Watsonville to a point approximately three miles toward the coast from Watsonville, at which point a certain switch and side track are to be constructed by Pajaro Valley Consolidated Railroad Company upon the lands of J. A. McCollum and F. Thurwachter;

And it appearing that applicants desire to execute this lease in order that the Pajaro Valley Consolidated Railroad Company may run its

trains upon the line of the Watsonville Railway and Navigation Company and transport from points thereon, certain shipments of beets, the Pajaro Valley Consolidated Railroad Company paying to the Watsonville Railway and Navigation Company for the use of said tracks, 3 cents per ton for all beets so transported;

And a public hearing having been held upon this application, and it appearing to the Commission that while the form of said lease is not in all respects satisfactory and should not be taken as a precedent in any other case, yet taking into consideration the circumstances surrounding this particular case, the application should be granted with the express understanding, however, that the order granting this application must not be construed as in any way releasing the Watsonville Railway and Navigation Company from any of the obligations which it owes to the public as a common carrier,

It is hereby ordered that Watsonville Railway and Navigation Company be and it hereby is authorized to lease to Pajaro Valley Consolidated Railroad Company, in accordance with the terms and conditions specified in the form of lease attached to the application in this proceeding, and marked Exhibit "A," that portion of the line of Watsonville Railway and Navigation Company between the junction point of the two railroads above mentioned, near Watsonville, to a point approximately three miles toward the coast, said point being more particularly described in the form of lease attached to the application in this proceeding, and marked Exhibit "A," upon the following conditions and not otherwise:

1. The Commission expressly reserves the right in cases in which it may be deemed necessary by further order, to alter or modify the provisions of this lease.
2. The authority herein granted the Watsonville Railway and Navigation Company to lease a portion of its line shall not be construed as in any way releasing said company from the obligations which it owes to the public as a common carrier.
3. The consideration paid for the lease of the property herein authorized to be leased shall not be taken before this Commission or any other public body as representing for rate fixing or other purposes, the value of the property leased.

By order of the Railroad Commission.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 925.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON
TOPEKA AND SANTA FE RAILWAY COMPANY AND THE
CALIFORNIA, ARIZONA AND SANTA FE RAILWAY COM-
PANY FOR PERMISSION TO DISCONTINUE SERVICE
BETWEEN BARNWELL AND IVANPAH IN SAN BERNAR-
DINO COUNTY.

Application No. 682.

Decided August 30, 1913.

Applicants permitted to abandon that portion of their line between Barnwell and Ivanpah, order effective the fifteenth day of September, 1913.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by the Atchison, Topeka and Santa Fe Railway Company and The California, Arizona and Santa Fe Railway Company to discontinue service between Barnwell and Ivanpah, in San Bernardino County, California.

The application sets forth that The Atchison, Topeka and Santa Fe Railway Company has been operating between the two points named, on a line of railroad leased from The California, Arizona and Santa Fe Railway Company; that the line from Barnwell to Ivanpah is 15.7 miles in length, running through a desert country, and serving no towns or settlements except Leastalk, where the line is crossed by the main line of the San Pedro, Los Angeles and Salt Lake Railroad Company; that the San Pedro, Los Angeles and Salt Lake Railroad amply serves this territory; that the total gross revenue of The Atchison, Topeka and Santa Fe Railway Company from all the business, both passenger and freight, on the line to be discontinued, for the period of thirteen months from May, 1912, to May, 1913, inclusive, was \$197.91.

As the San Pedro, Los Angeles and Salt Lake Railroad Company is serving this territory, and in view of the small amount of business done in this territory, I am of the opinion that this application should be granted. I desire, however, to give an opportunity to all interested parties to present such objections as they may have to the discontinuance of this service. I recommend, therefore, that the order granting this application be made effective September 15, 1913, and that appli-

cants be required to post a sufficient number of notices to adequately inform the public of the proposed discontinuance of the service.

ORDER.

The Atchison, Topeka and Santa Fe Railway Company and The California, Arizona and Santa Fe Railway Company, having applied to this Commission for permission to discontinue service between Barnwell and Ivanpah, in San Bernardino County, California, and the Commission being duly advised in the premises and being of the opinion that this application should be granted upon certain conditions hereinafter specified.

It is hereby ordered that The Atchison, Topeka and Santa Fe Railway Company and The California, Arizona and Santa Fe Railway Company be and they are hereby authorized on and after Monday, September 15, 1913, to discontinue service on the line of railroad between Barnwell and Ivanpah, in San Bernardino County, California, upon the following condition, and not otherwise, to wit:

That applicants shall post a notice of the proposed discontinuance of service between the points above specified, in at least three conspicuous public places in each of the following towns: Barnwell, Leastalk and Ivanpah, said notices to remain posted for at least ten consecutive days prior to the discontinuance of the service.

The foregoing opinion and order are hereby ordered approved and filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION NO. 926.

IN THE MATTER OF THE APPLICATION OF J. R. ANDERSON
FOR A CERTIFICATE DECLARING THAT PUBLIC CON-
VENIENCE AND NECESSITY REQUIRE THE EXERCISE
OF THE RIGHTS AND PRIVILEGES UNDER A FRAN-
CHISE GRANTED BY THE CITY OF OAKDALE, CALI-
FORNIA.

Application No. 712.

Decided August 30, 1913.

REPORT OF THE COMMISSION.

This Commission having on April 4, 1913, made an order in Appli-
cation No. 469, declaring that the Commission will hereafter, upon

application, issue a certificate that public convenience and necessity require the exercise of rights and privileges contained in a franchise which J. R. Anderson has applied for, but not yet secured from the city of Oakdale, California, said franchise being attached to the application in that proceeding and marked Exhibit "A"; and the city of Oakdale, having in its Ordinance No. 79, adopted on June 16, 1913, granted said franchise to said J. R. Anderson, giving to said J. R. Anderson the right to construct, maintain and operate a gas distributing system for the purpose of supplying gas for light, heat and power in the city of Oakdale, California, and said J. R. Anderson having applied to this Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to him under said franchise, and the Commission being of the opinion that this is not a case in which a public hearing is necessary.

It is hereby declared that public convenience and necessity require the exercise of the rights and privileges granted to J. R. Anderson by the city of Oakdale, California, in its Ordinance No. 79, adopted on June 16, 1913.

By order of the Railroad Commission.

Dated at San Francisco, California, this 30th day of August, 1913.

DECISION No. 927.

IN THE MATTER OF THE APPLICATION OF THE HALF
MOON BAY LIGHT AND POWER COMPANY FOR PER-
MISSION TO INCREASE CAPITALIZATION.

Application No. 166.

Decided August 30, 1913.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

It is hereby ordered that the time limit within which applicant may issue the stock authorized by this Commission in its order in this proceeding, made on October 3, 1912, be and the same is hereby extended from August 31, 1913, to and including December 31, 1913.

By order of the Railroad Commission.

Dated at San Francisco, California, this 30th day of August, 1913.

Decision No. 928, grade crossing; not printed. See end of volume.

DECISION No. 929.

IN THE MATTER OF THE APPLICATION OF SOUTHERN
COUNTIES GAS COMPANY OF CALIFORNIA FOR AU-
THORITY TO ISSUE BONDS.

Application No. 668.

Decided September 3, 1913.

Supplemental order authorizing applicant to issue a portion of its \$75,000.00 bonds heretofore authorized, said portion to be of the face value of \$6,500.00.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTAL ORDER.

Whereas on the 13th day of August, 1913, this Commission, after a hearing duly had upon the application of the Southern Counties Gas Company of California for authority to issue bonds, granted said Southern Counties Gas Company of California permission to issue its first mortgage six per cent thirty-year bonds under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, as trustee, dated April 1, 1911, to the amount of \$75,000.00, such bonds to be issued at different times in such amounts as applicant had justified itself in asking for under the terms of the said mortgage and deed of trust, the conditions of which are that applicant may issue bonds to 75 per cent of the cost of additions and betterments, but can only issue bonds to said amount of 75 per cent of additions and betterments when the net earnings of the company are one and one half times the interest charges on the outstanding bonds, plus one and one half times the interest charges on the bonds proposed to be issued; and

Whereas at the time said application was granted applicant was found to be in position, under the terms of its mortgage, to receive an authorization for the issue of \$7,000.00 in bonds, which authorization was granted to applicant; and

Whereas applicant now presents evidence showing that it has complied with the terms of the mortgage, and is entitled to a further issue of bonds to the extent of \$6,500.00 face value,

It is hereby ordered that Southern Counties Gas Company of Cali-

for California be and it is hereby authorized to issue \$6,500.00 of its thirty-year six per cent first mortgage bonds upon the conditions set forth in this Commission's order in the above entitled proceedings made on August 13, 1913, which conditions are hereby made a part of this order.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of September, 1913.

DECISION No. 930.

IN THE MATTER OF THE APPLICATION OF HUMBOLDT
TRANSIT COMPANY FOR AUTHORITY TO EXECUTE A
NOTE IN THE AMOUNT OF TWENTY THOUSAND
DOLLARS.

Application No. 699.

Decided September 3, 1913.

Applicant permitted to issue a demand note in the sum of \$20,000.00, with interest at 7 per cent, in lieu of a note in the same amount now outstanding bearing interest at 6 per cent.

Horace R. Hudson, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for authority to issue a demand note in the sum of \$20,000.00, with interest at the rate of 7 per cent per annum, payable to the First National Bank of Eureka, California, and secured by 40 Humboldt Transit Company first mortgage 5 per cent bonds of the face value of \$40,000.00, to take up a similar demand note now held by said bank, but bearing interest at the rate of 6 per cent per annum.

Applicant operates the street railway system of Eureka, and also buys and sells oil. The present note for \$20,000.00 represents a consolidation on December 31, 1911, of various notes at that time outstanding. The rate of interest at first was 7 per cent, but was later reduced to 6 per cent. The proceeds of the notes which were consolidated were used mostly for the Myrtle avenue extension in Eureka and for the purchase of new cars.

Applicant's treasurer testified that the First National Bank of Eureka had made written request that the existing note be taken up by a new demand note bearing interest at the rate of 7 per cent for the reason that money in Eureka is now worth 7 per cent. Applicant's treasurer testified that, in his opinion, applicant would have to pay the additional 1 per cent interest, and that applicant desired authority to issue the new note, as requested by the bank. While, ordinarily, I would not like to recommend the issue of a 7 per cent note to take up an outstanding 6 per cent note, I believe that the peculiar circumstances of this case at this particular time justify the granting of the application.

I recommend the following form of order:

ORDER.

Humboldt Transit Company having applied to the Railroad Commission for authority to issue its demand note for twenty thousand dollars (\$20,000), payable to the First National Bank of Eureka, bearing interest at the rate of seven (7) per cent per annum, and secured by forty (40) of applicant's five (5) per cent bonds, face value forty thousand dollars (\$40,000), to refund a promissory note of applicant in the same amount, now held by the First National Bank of Eureka, and a public hearing having been held on said application, and it appearing that the proceeds from the note which it is now desired to refund were used for proper capital expenditures,

It is hereby ordered that said application be and the same is hereby granted on the following conditions and not otherwise, to wit:

1. Said note shall be issued for not less than its face value, and shall bear interest at a rate not to exceed seven (7) per cent per annum.
2. Humboldt Transit Company shall report to the Railroad Commission the fact of the execution of the note hereby authorized to be issued and the date thereof.
3. This order shall not become effective until the fee specified in section 57 of the Public Utilities Act, as amended, has been paid.
4. The authority hereby given to issue said promissory note shall apply only to such note as may have been issued prior to the first day of November, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of September, 1913.

DECISION No. 931.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR AUTHORITY TO ISSUE ITS FIRST MORTGAGE FIVE PER CENT SINKING FUND FORTY-YEAR GOLD BONDS TO AN AMOUNT OF THE FACE VALUE OF THE PRINCIPAL OF SUCH BONDS SUFFICIENT AT THE PRICE AT WHICH SAID BONDS MAY BE SOLD TO NET THREE MILLION NINE HUNDRED AND SEVENTY-ONE THOUSAND SEVEN HUNDRED AND THIRTY-ONE DOLLARS.

Application No. 357.

Decided September 3, 1913.

Supplemental application for modification of original order in the matter of expenditures of the proceeds of bonds heretofore authorized, granted.

Guy C. Earl and Chaffee Hall, for Applicant.

REPORT OF THE COMMISSION.

TIELEN, *Commissioner.*

SECOND SUPPLEMENTAL OPINION.

On August 16, 1913, Great Western Power Company filed its third application for modification of the order heretofore, on March 11, 1913, made in the above entitled proceeding. The applicant's second application for modification of order, filed on May 3, 1913, was dismissed at the request of the applicant.

Applicant contends that under the terms of paragraph 2 of this Commission's said order of March 11, 1913, it is not given sufficient leeway, for the reason that said paragraph refers specifically to the estimates contained in certain general managers' orders, and limits the authorized expenditures to the amounts and purposes specified in said general managers' orders. This was the form in which applicant presented its application on which said order was made. It appears that certain estimates ran under the amounts of money which it is now found necessary to spend for designated purposes, and that other estimates ran over the amounts necessary to expend; and it also appears that it will not be necessary to incur any expenditures for certain of the work on which applicant figured at the time when said general managers' orders were prepared.

Applicant accordingly asks that said order be modified by permitting a rearrangement in a more general way of the purposes for which the proceeds of the bonds authorized by said order of March 11, 1913, may be expended. I find that the modification as requested should be made. This modification will appear in the order herein.

It should be distinctly understood that the authority herein given will not authorize Great Western Power Company to abandon service in any territory which it is that company's duty to serve.

I submit herewith the following form of order:

ORDER.

Great Western Power Company having filed its third application for a modification of this Commission's order, rendered on March 11, 1913, in the above entitled proceeding, in the respects in which authority is hereinafter given, and a public hearing having been held upon said application, and it appearing that said application should be granted,

It is hereby ordered that the proceeds from the sale of the bonds which this Commission authorized Great Western Power Company to issue by its order dated March 11, 1913, may be used for the following purposes and no others:

(a) Additions and improvements to distribution system, including pole lines, transformers, regulators, meters, etc., in the counties of Alameda, Contra Costa, Sacramento, Solano, Sonoma and Napa, and in the cities and towns therein; cables under Carquinez Straits and the bay of San Francisco; substation at Denverton; additions to substations at Napa and Sacramento; warehouse and garage at Petaluma; equipment of office at Napa, \$1,048,860.00.

(b) Additions and improvements to transmission system, including fifteen miles 100-kilovolt tower line, substation at Antioch, additions to substations at Cowell, Clayton and Brighton, \$128,492.00.

(c) Additions and improvements to production system, including completion of Big Bend Development, synchronous condenser at Oakland steam plant, \$685,727.00.

(d) Additions and improvements to lands appurtenant to hydro-electric development, including acquisition of lands in Big Meadows, \$200,000.00.

(e) Additions and improvements for general utility purposes, including cable barge, \$18,300.00.

(f) Completion of gravity section type dam at Big Meadows, \$1,607,635.00.

(g) Reimbursement for capital expenditures, \$280,783.00.

This order shall take effect *nunc pro tunc* as of March 11, 1913. In all other respects this Commission's said order of March 11, 1913, shall remain in full force and effect.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of September, 1913.

Decisions Nos. 932 and 933, grade crossings; not printed. See end of volume.

DECISION No. 934.

IN THE MATTER OF THE APPLICATION OF THE PENINSULA WATER COMPANY FOR PERMISSION TO SELL A PORTION OF ITS WATER SYSTEM TO THE CITY OF BURLINGAME.

Application No. 726.

Decided September 6, 1913.

Application of the Peninsula Water Company to sell a portion of its water system, known as the Burlingame Water System, to the city of Burlingame for the sum of \$48,375.00.

Rose & Rose, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This application came on regularly for hearing August 5, 1913, at 9 o'clock a. m.

Applicant is a corporation with its principal place of business in the city of San Mateo, San Mateo County, California. The business of applicant is to supply water for domestic and other purposes to the cities of San Jose and Burlingame and some outlying territory contiguous thereto.

Copies of the articles of incorporation of applicant were filed in the pleadings and are hereby referred to as Exhibit "A." Financial statement of applicant was also filed and is hereby referred to as Exhibit "B."

Applicant prays in its petition for permission to sell a portion of its water system, to wit, that portion known as the Burlingame Water

System, particular description of which is found in copy of deed on file with application herein and marked Exhibit "C," to the city of Burlingame for the sum of \$48,375.00.

Applicant gives as the reason for desiring to sell this portion of its plant or system the fact that the city of Burlingame has arranged to install its own water system and has authorized and sold bonds in the sum of \$175,000.00 for that purpose.

At the time that applicant purchased that portion of its system, known as the Burlingame Water System, which it now desires to sell, it created a bonded indebtedness in the sum of \$100,000.00 secured by a deed of trust which is a first lien upon the Burlingame Water Works, and a second lien upon the San Mateo Water Company, and applicant testifies that if this sale of the Burlingame Water System to the city of Burlingame should not be consummated it fears that it would be unable to compete with the municipal system which the city of Burlingame is installing and that, in consequence of that, it would be unable to pay its bond interest, with the possible result that such legal steps would be taken as would result in the sale of the Burlingame Water System at a price insufficient to discharge the bonded indebtedness, and a consequent further action against the San Mateo Water Company for the deficiency.

The value of the Burlingame Water System, which applicant now desires to sell to the city of Burlingame, was arrived at by arbitration and applicant testified that it believed the valuation arrived at, to wit, \$48,375.00, is the fair value of the property.

Mr. G. J. McGregor, president of the board of trustees of the city of Burlingame, was present at the hearing of this application, and stated that a resolution had been regularly passed by his board of trustees creating the committee of arbitration and that, upon report of said committee, the trustees had regularly passed a resolution to purchase the Burlingame Water System from applicant at the price of \$48,375.00; that he regarded such price as the fair value of the property; and that the city of Burlingame joined in the application, such jointure being necessary on account of there being some consumers outside of the city limits of Burlingame.

I find as a fact that the interests of the residents and water users of Burlingame will best be served by permitting the transfer, and I recommend the following order:

ORDER.

Whereas the Peninsula Water Company has applied for permission to sell a portion of its water system, known as the Burlingame Water System, to the city of Burlingame, for the sum of \$48,375.00; and

Whereas the city of Burlingame has decided to install, and is installing, a municipal water plant; and

Whereas the Commission has found that the interests of the residents and water users of Burlingame will best be served by permitting the transfer,

It is hereby ordered that the Peninsula Water Company be and it is hereby granted permission to sell for \$48,375.00 that portion of its water system or plant, known as the Burlingame Water System, described in the deed by which it is proposed to convey said property, said description being as follows:

First—Lots numbers fifteen (15), sixteen (16), seventeen (17), eighteen (18) and nineteen (19) in block number forty-six (46), according to, and as the same are shown, designated and delineated on that certain map entitled, "Lyon & Hoag Subdivision of the Town of Burlingame," recorded in the office of the county recorder of said county of San Mateo on the 16th day of July, 1906, in Book 4 of Maps at page 26, together with the improvements and fixtures situated thereon.

Second—The water system now belonging to said party of the first part, consisting of water pipes, pipe lines, conduits, mains, service pipes, meters, hydrants, valves and fittings, now located on and under the lands marked as streets, roads and avenues on those certain maps recorded in the office of the county recorder of said county of San Mateo, and entitled substantially as follows:

"Map No. 1 of the Town of Burlingame," filed for record and recorded therein, March 15th, 1897, in Book 2 of Maps at page 87; "Lyon & Hoag Subdivision of the Town of Burlingame," filed for record and recorded therein, July 16th, 1906, in Book 4 of Maps at page 26; "Map No. 2 of the property of the Burlingame Land Company," filed for record and recorded therein, February 20th, 1905, in Book 3 of Maps at page 55; "Burlingame Villa Park," filed for record and recorded therein, June 5th, 1905, in Book 3 of Maps at page 65; "Map of the de Coulon Subdivision, Burlingame, Cal.," filed for record and recorded therein, May 14th, 1909, in Book 6 of Maps at page 61; "Map of Subdivision No. 2 of Burlingame Park, Cal.," filed for record and recorded therein, October 16th, 1905, in Book 3 of Maps at page 77; "Map of Subdivision No. 3, Burlingame Park, Cal.," filed for record and recorded therein November 20th, 1905, in Book 3 of Maps at page 84; "Map of Subdivision No. 4 of Burlingame Park, Cal.," filed for record therein November 20th, 1905, in Book 3 of Maps, page 85; "Map of Subdivision No. 5 of Burlingame Park," filed for record and recorded therein, May 13th, 1907, in Book 5 of Maps at page 4; "Map of Burlingame Heights, San Mateo County, California," filed for record and recorded therein, June 15th, 1905, in Book 3 of Maps at page 67; "Map of Burlingame Terrace, San Mateo County, Cal.," filed for record and recorded therein June 4, 1906, in Book 4 of

Maps at page 23; "Map No. 2 of Burlingame Terrace, Burlingame, California," filed for record and recorded therein January 3, 1911, in Book 7 of Maps at page 38.

Also the water system now belonging to said party of the first part, consisting of water pipes, pipe lines, conduits, mains, service pipes, meters, hydrants, valves and fittings now located on and under all streets, roads, avenues, alleys, squares and rights of way, in the city of Burlingame, other than those hereinabove described.

Third—All water, water rights and water privileges and appropriations now owned or held by the party of the first part in the city of Burlingame, county and state aforesaid.

Fourth—All rights, easements, privileges and franchises including the right to lay, construct, maintain, repair, restore and renew water pipes, pipe lines, conduits, mains, service pipes, meters, hydrants, valves and fittings, now owned or held by the party of the first part in, to, upon, along, under, through or across the streets, roads, avenues, alleys, squares and rights of way hereinbefore described.

Fifth—All business now carried on by the party of the first part at and in the city of Burlingame, county and state aforesaid, and elsewhere in the county of San Mateo where the consumers are served through the aforesaid water system, together with the good will of the same.

And be it further ordered that this order shall not become effective until the city of Burlingame shall have filed with this Commission a stipulation regularly passed by its board of trustees and signed by the president and secretary thereof that said city accepts each and all of the obligations which the Peninsula Water Company, and its subsidiary company, the Burlingame Water System, are under to the patrons of said Peninsula Water Company, and its subsidiary company, the Burlingame Water System, whose homes and property served by said company are outside of the corporate limits of said city of Burlingame, and will discharge those obligations to said consumers in the same manner and to the same extent as the Peninsula Water Company, and its subsidiary company, the Burlingame Water System, were obligated to do, and will give to said consumers the same character of service as is given to the consumers of said Peninsula Water Company, and its subsidiary company, the Burlingame Water System, whose homes and property are within the limits of the said city of Burlingame.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of September, 1913.

Decisions Nos. 935, 936, 937, and 938, grade crossings; not printed. See end of volume.

DECISION No. 939.

IN THE MATTER OF THE APPLICATION OF E. POWERS TO
INCREASE TELEPHONE CHARGES OF MANTECA TELE-
PHONE AND TELEGRAPH COMPANY.

Application No. 667.

Decided September 11, 1913.

Applicant asks permission to increase monthly rentals from 75 cents to \$1.00 in consideration of the establishment of continuous service in lieu of thirteen-hour service now maintained.

Held, That applicant's present rates warrant the installation of continuous service, application denied.

E. Powers, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The application herein is for permission to increase the rate for so-called "Farmer Line" service from 75 cents per month to \$1.00 per month in consideration of establishing continuous twenty-four hour service in lieu of thirteen-hour service which is at present maintained.

The applicant holds that to increase the hours of service to meet the demands of his patrons will necessitate the employment of an additional operator at a cost of \$25.00 per month, and that the present returns from the business do not justify this increased operating expense. The demand for longer hours of service was presented in a petition circulated by the applicant among his subscribers and signed by them in which they agree to pay the increased rate prayed for in the application.

A statement of operating expenses and revenues was submitted indicating that the telephone system was being operated at a considerable loss, but an examination of this statement shows that even accepting the various items of operating costs which have been charged against the exchange the present rates are yielding a profit on the investment. It is also to be observed that, while the statement of operating expense does not include a sum paid out for taxes, under legitimate charges to expenses of operation the net revenue would show a still greater return on the investment.

The telephone exchange is located in the same office and the telephone business is conducted in conjunction with and by employees devoting a portion of their time to other business interests of the applicant. It does not appear that sufficient allowance for this association of these various business interests of the applicant has been made in the charges against the expenses of operating the telephone business.

Farmer line service, in the sense that this term applies generally in the telephone business, involves a service in which the subscriber is required to provide and maintain at his expense a portion of the equipment placed in service. It also contemplates a rate which is considerably lower than the rates charged those other classes of service which do not require the subscriber to provide such equipment. While in the present instance, these conditions are imposed with reference to equipment, the rate charged for the service is already very considerably higher than is generally charged for like service at other points throughout the State.

The chief difficulty in this case appears to be due to a lack of consideration due those general, distinguishing principles of exchange and rural service which, in this instance, seem to demand a complete revision and reorganization.

It may appear that if the rate payers voluntarily agree to pay an increased rate for an added service which they seek to obtain, to deny the rate would be to deprive them of a necessary service. It is not apparent, however, that the remedy sought is the only relief possible nor is it clear that a rate which appears to be already higher than it should be, should be still further burdened when the relief prayed for may be obtained by other means. I am accordingly of the opinion that the application should be denied and would suggest that the business be so reorganized with reference to exchange and rural service as to enable the owners of the system to meet such reasonable requirements for an efficient service as can be normally supported by the business.

The hearing developed the further fact that the applicant company is operating its exchange under a contract with The Pacific Telephone and Telegraph Company for the interchange of long distance telephone toll service, under the terms of which the Pacific Company allows the local company a commission of 15 per cent of the Pacific Company's tolls collected by the local company. Under similar circumstances in other cases, the Pacific Company has conceded a commission of not less than 30 per cent on originating paid toll business or the equivalent thereof divided between originating and incoming business. There appears to be no reason why the applicant company should not benefit to the extent of this increase in compensation for interchange of business with the Pacific Company, and the opinion herein contemplates

the opening of informal negotiations with the Pacific Company looking to a revision of its contract with this local company to provide for this increase in compensation for the interchange of traffic. The following order is, therefore, recommended:

ORDER.

Application having been made by E. Powers to increase telephone charges of Manteca Telephone and Telegraph Company for farmer line service from 75 cents per month to \$1.00 per month, and a hearing having been held thereon and it appearing that the present rate of 75 cents per month charged for farmer line service is greater than the rate charged at other points in this State for similar service, and no adequate reason appearing in justification of the increased rate prayed for,

It is hereby ordered that the application of E. Powers, operating a telephone system as a public utility in the town of Manteca, San Joaquin County, California, to increase telephone charges of Manteca Telephone and Telegraph Company be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of September, 1913.

DECISION No. 940.

FRAZIER M. SALLEE

vs.

SOUTHWESTERN HOME TELEPHONE COMPANY AND THE
PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 391.

Decided September 11, 1913.

REPORT OF THE COMMISSION.

ORDER DISMISSING COMPLAINT.

The defendants having on July 12, 1913, filed a schedule of rates which satisfies the complaint in this proceeding,

It is hereby ordered that the above entitled complaint be and the same hereby is dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 11th day of September, 1913.

DECISION No. 941.

JOHN W. REESE

vs.

THE SOUTHWESTERN HOME TELEPHONE COMPANY, THE
PACIFIC TELEPHONE AND TELEGRAPH COMPANY AND
THE UNITED STATES LONG DISTANCE TELEPHONE
AND TELEGRAPH COMPANY.

Case No. 443.*Decided September 11, 1913.*

REPORT OF THE COMMISSION.

ORDER DISMISSING COMPLAINT.

The defendants having on August 28, 1913, filed a schedule of rates which satisfies the complaint in this proceeding,

It is hereby ordered that the above entitled complaint be and the same hereby is dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 11th day of September, 1913.

DECISION No. 942.

J. A. HOAG

vs.

SOUTHWESTERN HOME TELEPHONE COMPANY, THE PA-
CIFIC TELEPHONE AND TELEGRAPH COMPANY, AND
THE UNITED STATES LONG DISTANCE TELEPHONE AND
TELEGRAPH COMPANY.

Case No. 428.*Decided September 11, 1913.*

REPORT OF THE COMMISSION.

ORDER DISMISSING COMPLAINT.

The defendants having on July 12, 1913, filed a schedule of rates which satisfies the complaint in this proceeding,

It is hereby ordered that the above entitled complaint be and the same hereby is dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 11th day of September, 1913.

DECISION No. 943.

IN THE MATTER OF THE APPLICATION OF MAILLIARD ESTATE FOR PERMISSION TO MAKE INCREASE IN CHARGES.

Application No. 435.

Decided September 12, 1913.

Application of Mailliard Estate to raise its flat rates for water in the towns of Lagunitas and San Geronimo from \$6.00 per annum to \$12.00 per annum.

Held, That applicant be permitted to install in the town of Lagunitas a flat rate of \$7.79 per annum, and an additional proportionate rate averaging from \$12.00 per annum in proportion to the number of months service is used by the consumer.

Held, That applicant be permitted to install a flat rate of \$12.00 per year in the town of San Geronimo.

McCutchen, Olney & Willard and A. C. Greene, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by the Mailliard Estate for permission to increase rates for water furnished consumers in the towns of Lagunitas and San Geronimo.

No valuation of the plant of applicant was presented, but at the hearing it was stipulated that such valuation might be made by the engineers of this Commission and their report thereon be presented and considered by the Commission in arriving at a decision herein, notwithstanding that said report was not introduced in evidence.

The engineers of this Commission have made an examination of the properties of applicant used and useful in supplying water to the residents of Lagunitas and San Geronimo, and have reported a finding of value as follows:

| | | |
|--------------------|-------|-------------|
| Lagunitas plant | ----- | \$9,610 00 |
| San Geronimo plant | ----- | 1,140 00 |
| Total | ----- | \$10,750 00 |

The present rate charged consumers under both of these plants has been \$6.00 per consumer per annum. In addition to this rate, the company has placed meters on the services of certain consumers in order to check waste, and in so doing has applied a meter rate, which rate was the same as the flat rate of \$6.00 per annum, with an excess charge of 50 cents per thousand gallons for all water used over 4,500 gallons in any one month.

Applicant presented evidence that the income from both plants for the year 1912 amounted to \$717.55. The number of consumers served by these two plants is:

| | |
|-------------------------|-----|
| Lagunitas plant | 107 |
| San Geronimo plant..... | 9 |
| Total | 116 |

Segregating the income between the two plants and classes of service rendered, we have the following returns under the present rate:

| | |
|--|----------|
| Lagunitas plant, 107 consumers at \$6.00..... | \$642 00 |
| Surplus water sold at meter rates..... | 21 55 |
| | <hr/> |
| | \$663 55 |
| San Geronimo plant, 9 consumers at \$6.00..... | 54 00 |
| | <hr/> |
| Total | \$717 55 |

Applicant asks that the flat rate be raised from \$6.00 per annum to \$12.00 per annum to each consumer. Should this be granted, and assuming the same amount of surplus water sold under meter measurements, the following income would result:

| | |
|---|------------|
| Lagunitas plant, 107 consumers at \$12.00..... | \$1,284 00 |
| Surplus water sold | 21 55 |
| | <hr/> |
| Say | \$1,306 00 |
| San Geronimo plant, 9 consumers at \$12.00..... | 108 00 |
| | <hr/> |
| Total, say | \$1,414 00 |

Applicant suggests an interest return on the value of its property of 6 per cent per annum, and adopting this percentage the following income is required to support the properties:

| | |
|--|------------|
| Lagunitas plant: | |
| Interest 6 per cent on \$9,610.00..... | \$566 00 |
| Depreciation | 431 00 |
| Operation and maintenance..... | 516 00 |
| | <hr/> |
| | \$1,524 00 |
| San Geronimo plant: | |
| Interest 6 per cent on \$1,400.00..... | \$68 00 |
| Depreciation | 48 00 |
| Operation and maintenance..... | 60 00 |
| | <hr/> |
| | 176 00 |
| | <hr/> |
| Total | \$1,700 00 |

It is, therefore, evident that the increased rate asked for by the Mailiard Estate will not be sufficient to support the properties on the above basis, the annual deficiency being \$218.00 in the case of the Lagunitas plant and \$68.00 in the case of the San Geronimo plant. The surplus available for interest will be for the Lagunitas plant \$359.00, which is 3.73 per cent on its present value, and for the San Geronimo plant there will be no surplus for interest, the income being just sufficient to cover the maintenance, operation and depreciation charges.

Considering the two plants as one property, the combined surplus applicable as interest would be \$359.00, as above determined, which is 3.34 per cent on the total present value of the two properties.

The character of the service rendered by the two plants is entirely different.

At San Geronimo the service is rendered to 9 consumers throughout the year.

At Lagunitas but 12 consumers are permanent residents, the balance being transient and requiring service but for a few weeks or months, principally during the summer season. This transient service is difficult of determination. Investigation of all possible sources of information leads to the belief that the number of consumers and the months during which they will require service is as follows:

At San Geronimo.

| Number of consumers | Period for which service is required, months | Consumer, months |
|---------------------|--|------------------|
| 9 ----- | 12 | 108 |

At Lagunitas.

| | | |
|-----------|-------|-----|
| 12 ----- | 12 | 144 |
| 17 ----- | 7 | 119 |
| 42 ----- | 3 | 126 |
| 36 ----- | 1 | 36 |
| 107 ----- | ----- | 425 |

This transient service makes an equitable rate difficult of determination. Neither permanent nor transient consumers should be burdened with charges incurred on behalf of the other class. For instance, if the rate of \$12.00 per year per consumer, which the company asks for, were to be granted, it would require the transient consumers who may require service for one month in the year to pay the same rate which would be paid by the permanent resident who requires service the entire year. This is evidently inequitable. It goes without saying that the transient consumer should not be burdened with a portion of the expense which is properly chargeable to the permanent consumer.

The cost of the service rendered to a consumer may be divided into two parts, the first of which is fixed and does not vary and may be considered to have been incurred and accrued against the consumer because of the necessity of the plant being able at all times to render service to any consumer who may require it. This is evident when we consider that the investment in the plant has been necessitated in order that it may have a capacity to serve the entire number of consumers which may demand service from it. The plant, itself, has been constructed of a capacity to meet the demand of the 107 consumers. It follows that the interest on this value, together with the annual depreciation and a certain proportion of other charges accrue against the consumer whether constant service is rendered or not. This charge will not vary whether that service is rendered for one month or twelve months in the year. It may be called a "stand-by" charge or "capacity" charge. As all services in these plants are of the same size, it seems that this charge should be evenly borne by each consumer.

The second charge is a variable charge, and is affected by the amount of service rendered. It may be called a quantity charge and may be consequently apportioned to the consumer in proportion to the amount of service rendered.

It has been seen that in the case of the Lagunitas plant the total income to be produced from that property was \$1,306.00. If we segregate this income in accordance with the above principle, we will find that the following are the total charges to be covered by the new rate:

| | |
|-----------------------|------------|
| Capacity charge ----- | \$834 00 |
| Quantity charge ----- | 472 00 |
| Total ----- | \$1,306 00 |

The total fixed charge of \$834.00 is apportioned to the consumers in accordance with their number and amounts to \$7.79 per consumer per annum.

The quantity charge varying with the service rendered is also determined in the same way. It has been previously found that the 107 consumers on this system will use water during 425 consumer months and the income to be derived from this service charge is \$472.00. Of this amount about \$22.00 is to be realized from the surplus water sold through meters and will, in consequence, be automatically apportioned to the proper consumers. The balance of \$450.00 represents a charge of \$1.06 per consumer month.

The total rate paid in any one year by a consumer would, therefore, be made up of the fixed charge of \$7.79 plus \$1.06 for each month for which service is rendered in that year. On this basis the following

would be the schedule for consumers using water for various periods in the year:

| For consumers using water for | Total payment by consumer in the year |
|-------------------------------|---|
| 1 month in the year..... | \$8 85 |
| 2 months in the year..... | 9 91 |
| 3 months in the year..... | 10 97 |
| 4 months in the year..... | 12 03 |
| 5 months in the year..... | 13 09 |
| 6 months in the year..... | 14 15 |
| 7 months in the year..... | 15 21 |
| 8 months in the year..... | 16 27 |
| 9 months in the year..... | 17 33 |
| 10 months in the year..... | 18 39 |
| 11 months in the year..... | 19 45 |
| 12 months in the year..... | 20 51 |

In applying this rate the company should collect \$7.79 plus \$1.06, or \$8.85, for the first month in each year during which service is rendered, and thereafter during that year at the rate of \$1.06 per month for the service rendered.

Based on this rate, the following table shows the number of consumers, probable length of service required, amount paid, and annual income to the company:

At Lagunitas.

| Number of consumers | Probable period for which service is required | Amount paid by each | Annual income to company |
|---------------------------------------|--|------------------------|-----------------------------|
| 12 | 12 | \$20 51 | \$246 12 |
| 17 | 7 | 15 21 | 258 57 |
| 42 | 3 | 10 97 | 460 74 |
| 36 | 1 | 8 85 | 318 60 |
| Excess water sales by meter, say..... | | | 22 00 |
| Total, say | | | \$1,306 00 |

This, therefore, will return to the company the amount which they ask for in their application, equitably divided among the various classes of consumers. It will be noted that in the case of the permanent consumers who take water throughout the entire year, the average monthly rate paid is \$1.71, which will not be unduly burdensome under the circumstances.

In regard to the condition of the San Geronimo plant, I would say that \$12.00 per annum, or \$1.00 per month to the 9 permanent consumers is reasonable, and less than the cost of production. Were it not that the company asked only that this rate be granted, I would consider that a higher rate might in equity be made. As previously indicated, this rate will produce a revenue of \$108.00 per annum, which will make

a total of \$1,414.00 for the two properties, and is the estimated amount which would be received by the company under the increase asked for.

It should be borne in mind that the Lagunitas and San Geronimo plants are entirely separate and distinct as to source of water supply, plant, location and consumers. Hence comparison can not be made between the two for rate fixing purposes, nor can the difference in rates charged under the two plants be held to be discriminatory.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Mailliard Estate for an order authorizing it to increase its rates for furnishing water to consumers in the towns of Lagunitas and San Geronimo,

And a hearing having been held on said application, and the Commission being fully advised in the premises, it is hereby found as a fact that the present flat rate charged consumers for furnishing water in the towns of Lagunitas and San Geronimo by the Mailliard Estate—which flat rate is \$6.00 per annum, payable July 1st and delinquent December 31st of each year—is an unjust and unreasonable rate and charge.

It is hereby further found as a fact that the following flat rates and charges for water furnished to the inhabitants of the towns of Lagunitas and San Geronimo are just and reasonable rates and charges, to wit:

For the town of Lagunitas.

| For consumers using water for | Total payment by consumer in the year |
|-------------------------------|---|
| 1 month in the year..... | \$8 85 |
| 2 months in the year..... | 9 91 |
| 3 months in the year..... | 10 97 |
| 4 months in the year..... | 12 03 |
| 5 months in the year..... | 13 09 |
| 6 months in the year..... | 14 15 |
| 7 months in the year..... | 15 21 |
| 8 months in the year..... | 16 27 |
| 9 months in the year..... | 17 33 |
| 10 months in the year..... | 18 39 |
| 11 months in the year..... | 19 45 |
| 12 months in the year..... | 20 51 |

For the town of San Geronimo.

Flat rate of \$1.00 per month.

Basing its order upon the findings of fact set out herein, and also upon the findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California, that Mailliard Estate may file with this Commission a schedule of flat rates and charges for furnishing water to the inhabitants of the

towns of Lagunitas and San Geronimo, as follows, said rates to become effective thirty days after filing:

For the town of Lagunitas.

| For consumers using water for | Total payment by consumer in the year |
|-------------------------------|---|
| 1 month in the year..... | \$8 85 |
| 2 months in the year..... | 9 91 |
| 3 months in the year..... | 10 97 |
| 4 months in the year..... | 12 03 |
| 5 months in the year..... | 13 09 |
| 6 months in the year..... | 14 15 |
| 7 months in the year..... | 15 21 |
| 8 months in the year..... | 16 27 |
| 9 months in the year..... | 17 33 |
| 10 months in the year..... | 18 39 |
| 11 months in the year..... | 19 45 |
| 12 months in the year..... | 20 51 |

For the town of San Geronimo.

Flat rate of \$1.00 per month.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of September, 1913.

Decisions Nos. 944 and 945, grade crossings; not printed. See end of volume.

DECISION No. 946.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN
LIGHT AND POWER CORPORATION FOR AUTHORITY TO
ISSUE BONDS AND NOTES.

Application No. 629.

Decided September 12, 1913.

Supplemental order permitting applicant to amend agreement under which it intends to pledge bonds heretofore authorized.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION.

ESHLEMAN, *Commissioner.*

On July 12, 1913, this Commission issued an order upon Application No. 629, granting authority to San Joaquin Light and Power Corporation to issue \$1,776,000.00 of its Series B first and refunding mortgage

forty-year 5 per cent bonds; to issue \$1,626,000.00 of said bonds forthwith; to issue its two-year 6 per cent collateral trust notes under an agreement with Savings Union Bank and Trust Company of San Francisco which provided that \$3,000.00 of notes should be issued upon the collateral security of \$4,000.00 of said first and refunding mortgage bonds; and to pledge as security for a note or notes such portion of said issue of \$1,776,000.00 of first and refunding mortgage bonds as were not pledged as collateral security for said two-year 6 per cent collateral trust notes.

San Joaquin Light and Power Corporation now asks that this order be amended to the end that the \$1,626,000.00 of bonds authorized to be issued forthwith shall be identified by number, and for the purpose of allowing certain changes in the trust agreement between San Joaquin Light and Power Corporation and Savings Union Bank and Trust Company of San Francisco, under which said two-year 6 per cent collateral trust notes are to be issued.

The request that the bonds be identified by number is a proper one. The changes proposed in the trust agreement do not alter the main conditions of the original agreement and are such that the Commission may approve them.

I therefore recommend the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to this Commission asking that the order of this Commission of July 2, 1913, upon Application No. 629, be amended by identifying by number the \$1,626,000.00 of bonds therein authorized to be issued forthwith and by approving certain changes in the trust agreement between San Joaquin Light and Power Corporation and Savings Union Bank and Trust Company, as trustee, providing for the issue of two-year 6 per cent collateral trust notes; and a copy of said amended trust agreement having been filed with this Commission in connection with the application herein and marked "Exhibit D"; and the request of the applicant for these amendments of the order upon the application herein appearing entirely reasonable,

It is hereby ordered that the decision of this Commission rendered on July 12, 1913, upon Application No. 629, be amended to the end that the authority therein given to issue forthwith \$1,626,000.00 of Series B first and refunding mortgage forty-year 5 per cent bonds, shall apply only to said bonds numbered 2757 to 4383, both inclusive;

And it is further ordered that said decision rendered on July 12, 1913, upon Application No. 629, be amended to the end that the two-year 6 per cent collateral trust notes therein authorized to be issued shall be issued under the amended agreement between San Joaquin Light and

Power Corporation and Savings Union Bank and Trust Company, trustee, dated August 1, 1913, a copy of which has been filed in connection with the application herein and marked "Exhibit D," to which reference is hereby made;

It is further ordered that the authority herein given by this supplemental order shall be subject to all the conditions enumerated in this Commission's decision of July 12, 1913, upon the application herein.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of September, 1913.

DECISION No. 947.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR THE APPROVAL OF A LEASE OF RAILROAD EQUIPMENT DATED SEPTEMBER 2, 1913, FROM COMMERCIAL TRUST COMPANY TO SOUTHERN PACIFIC COMPANY, AND AN AGREEMENT DATED SEPTEMBER 2, 1913, BETWEEN HARRY E. RIGHTER AND WILLIAM L. FRY WITH COMMERCIAL TRUST COMPANY AND SOUTHERN PACIFIC COMPANY, AND FOR AN ORDER AUTHORIZING THE ISSUANCE OF TRUST CERTIFICATES AS PROVIDED IN SAID LEASE AND AGREEMENT.

Application No. 728.

Decided September 15, 1913.

Held, That application be granted as a whole, but that as this Commission's jurisdiction extends only as to that equipment to be used wholly within the State of California;

Held, That this Commission shall collect the fee as prescribed by section 57 of the Public Utilities Act only on that portion of this authorized issue of trust certificates which affects the acquisition of equipment to be used solely within the State of California.

Guy V. Shoup and Henley C. Booth, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order of this Commission approving a certain lease of railroad equipment, dated September 2, 1913, from Commercial Trust Company to Southern Pacific Company, and an

agreement dated September 2, 1913, between Harry E. Righter and William L. Fry with Commercial Trust Company and Southern Pacific Company, and authorizing the issuance of Southern Pacific Company equipment trust certificates, Series B, of the aggregate principal amount of \$2,010,000.00 and further authorizing the Southern Pacific Company to guarantee the payment of the principal and the dividend coupons of said equipment trust certificates as provided in said agreement, and also authorizing said Southern Pacific Company in order to obtain subscriptions for said equipment trust certificates to pay discounts and commissions not to exceed 6 per cent on the basis of the average maturities of said equipment trust certificates.

Applicant alleges that because of deterioration and unserviceability, resulting from constant use, and also because of the increased demands of traffic, the equipment now owned by it and its lessor and proprietary companies and used in the conduct of their business as common carriers, is not and will not be sufficient or adequate for the proper and efficient transportation of freight and passenger traffic over the operated lines of said Southern Pacific Company and its lessor and proprietary companies, and that in order to transport such traffic properly over such lines, it will be necessary for the Southern Pacific Company to acquire additional railroad equipment costing in the aggregate approximately \$2,238,083.26. In order to procure such equipment the Southern Pacific Company desires to enter into an agreement dated September 2, 1913, with Harry E. Righter and William L. Fry and the Commercial Trust Company, and a lease of such equipment from the Commercial Trust Company, of the same date, pursuant to such agreement, in substantially the form set forth in the printed copy of such proposed lease and agreement which are filed with the application and marked "Exhibit A."

The agreement provides, in effect, that Righter and Fry, hereinafter called the "vendors," are to deliver to persons designated by the Commercial Trust Company, hereinafter called the "trustee," the equipment which the Southern Pacific Company now desires to acquire, and which will hereinafter be referred to in greater detail. The agreement provides that the title to the equipment shall vest in the trustee. The trustee shall thereupon execute a lease of the equipment to the Southern Pacific Company. Upon receipt of the equipment and the execution of the lease to the Southern Pacific Company, the trustee will turn over to the vendors, Southern Pacific trust equipment certificates, Series B, not to exceed 90 per cent of the cost of the equipment. As an alternative, these equipment trust certificates may be turned over by the trustee to parties named by the vendor, upon deposit of the face value of said certificates. It is provided in the agreement that the Southern Pacific

Company may, at stated times, after September 1, 1918, purchase the equipment. The Southern Pacific equipment trust certificates are to be of a total issue of \$2,010,000.00, are to be in amounts of \$1,000.00 each, will bear a dividend at the rate of $4\frac{1}{2}$ per cent and will be due and payable in amounts of \$201,000.00 each year, beginning September 1, 1914, to and including the year ending September 1, 1923. The Southern Pacific Company, for a valuable consideration, unconditionally guarantees to the holder or registered owner of each of said certificates the payment of both principal and dividends. This guarantee is attached to each trust certificate. It is clear that it is, in effect, a note or promise to pay on the part of the Southern Pacific Company.

The lease between the trust company and the Southern Pacific Company refers to the agreement and then provides for the lease by the trust company to the Southern Pacific Company of the equipment which is the subject-matter of this application. As the equipment is delivered by the trustee to the Southern Pacific Company, the latter is to pay in cash the difference between the cost price of the equipment and the face value of the equipment trust certificates issued against it. The lease is so drawn that this sum shall represent 10 per cent of the cost price, the balance, or 90 per cent, to be covered by the equipment trust certificates. Title to the equipment shall remain in the trustee until the Southern Pacific Company has completed the payment of principal and dividend on the equipment trust certificates, whereupon the title shall be transferred by the trustee to the Southern Pacific Company. The lease provides in part that the Southern Pacific Company may purchase the equipment at stated times after September 1, 1918, by paying the face value of the outstanding equipment trust certificates with a premium of $2\frac{1}{2}$ per cent, plus accrued interest, and other accumulations. The lease also provides that the equipment shall be lettered so as to show that the title remains in the trustee. The equipment trust certificates run for ten years, and all of the equipment will be paid for at least by the end of that period.

The equipment which the Southern Pacific Company desires to acquire is as follows:

1. Six steel observation cars, to be used by the Southern Pacific Company and the Central Pacific Railway Company.
2. Thirteen steel combination baggage and postal cars, to be used by the Southern Pacific Company and the Central Pacific Railway Company and the Arizona Eastern Railway Company.
3. Thirty-four steel baggage cars, to be used by the Southern Pacific Company, the Central Pacific Railway Company, the Oregon and California Railway Company, the Houston and Texas Central Railway Company, the Galveston, Harrisburg and San Antonio Railway Company, and the Arizona Eastern Railway Company.

4. Sixty-three steel coaches to be used by the Southern Pacific Company, the Central Pacific Railway Company, the Galveston, Harrisburg and San Antonio Railway Company, the Houston East and West Texas Railway Company and the Arizona Eastern Railway Company.

5. Twenty steel chair cars, to be used by the Galveston, Harrisburg and San Antonio Railway Company, the Houston and Texas Central Railway Company and the Texas and New Orleans Railway Company.

6. Six steel diners, to be used by the Southern Pacific Company and the Central Pacific Railway Company.

7. Six steel buffet baggage cars, to be used by the Southern Pacific Company and the Central Pacific Railway Company.

8. Ten locomotive tenders, to be used by the Southern Pacific Company.

9. Three tank cars, to be used by the Arizona Eastern Railway Company.

10. One hundred box cars, to be used by the Arizona Eastern Railway Company.

The following equipment to be used by the Pacific Electric Railway Company:

- A. Ninety box cars;
- B. Sixty flat cars;
- C. Ten gondola cars;
- D. Ten stock cars;
- E. Twenty electric street cars;
- F. One hundred dump cars.

The Southern Pacific Company owns a majority of the capital stock of each of the foregoing railway companies. All of these companies operate either outside of the State of California or partly outside and partly inside of the State, with the exception of the Pacific Electric Railway Company, a California corporation, whose mileage is located entirely within the State of California.

The testimony shows that all of the above mentioned equipment is necessary in the conduct of the business of the respective lines of railway on which it is to be used and that the price to be paid therefor is reasonable.

Applicant testified that for the fiscal year ending June 30, 1913, it had paid a six per cent dividend, amounting to \$16,360,344.30 upon 2,726,724.05 shares of its common stock, and that after the payment of all its interest and other obligations and the aforesaid dividend, it had laid aside a surplus during the fiscal year ending June 30, 1913, of approximately \$25,962,890.00.

Applicant further testified that it would be necessary, in order to obtain subscriptions for its said equipment trust certificates, to pay discounts and commissions not to exceed 6 per cent on the basis of the

average maturities of its equipment trust certificates. It testified that the market for the sale of these certificates in New York at the present time is a favorable one, and that it is desirous of securing this Commission's speedy authorization.

Heretofore, on April 4, 1913, the Southern Pacific Company filed a similar application for authority to guarantee equipment trust certificates in the aggregate amount of \$10,120,000.00, being Application No. 484, in which case this Commission on April 11, 1913, made its order granting the application *in toto*. Thereafter, on June 4, 1913, the Southern Pacific Company filed with this Commission Application No. 585, asking authority to issue its notes of the face value of \$30,000,000.00 for the purpose of making certain additions and betterments to its lines, which application was granted by this Commission *in toto* on June 7, 1913, three days thereafter. The equipment and other property to be used by the Southern Pacific Company in each of these two applications was to be used partly in interstate business and partly in state business. The Southern Pacific Company, however, made no segregation between these purposes, but asked the Commission to issue its authorization for the entire proposed issue in each case, which was done by this Commission in order to remove any possible doubt as to the authority of the Southern Pacific Company to issue its notes or guarantees, even though the applications included equipment and other property to be used both within and without the State of California. The Southern Pacific Company in neither case questioned the authority of this Commission and in each case asked that the Commission's authority cover the entire issue, and in each case the Commission's order did so for the purpose of assisting the Southern Pacific Company. While under the provisions of section 57 of the Public Utilities Act, fees were collected on the entire authorized issue, the Commission was helpless to do otherwise, for the reason that the Southern Pacific Company made no segregation so that this Commission could ascertain what portion of the property to be acquired would be used solely in the State of California.

In its present application, the applicant has inserted paragraph 15. as follows:

Inasmuch as section 52 of the Public Utilities Act of this State provides that no evidence of indebtedness, payable at periods of more than twelve months after the date thereof, for the acquisition of property or for the improvement or maintenance of its service shall be issued by any public service corporation until such public service corporation shall first have secured from this Commission an order authorizing such issue in accordance with the provisions of such statute, and inasmuch as part of the equipment provided for in said lease and agreement will be used upon lines of railroad within this state and subject to the jurisdiction of this

Commission, and it is desirable that no claim shall hereafter be made that the trust certificates, or any of them, provided for in said lease and agreement and the payment of which is to be guaranteed by your petitioner, constitute evidence of indebtedness which are void within this state because not authorized by this Commission, your petitioner files this petition in order that it may secure this Commission's approval of the said lease and agreement and authorization of the issuance of such trust certificates with the guaranty of the payment thereof by the Southern Pacific Company endorsed upon each of such certificates as provided in the lease and agreement filed with this petition."

"This application is made without prejudice to the cause of action set forth in the complaint filed by petitioner against the members of this Commission and others in the United States District Court for the Northern District of California and now pending therein."

In view of this statement for the first time questioning formally the jurisdiction of this Commission in such a proceeding before it, it becomes necessary to give consideration to the question of this Commission's jurisdiction.

Section 52 of the Public Utilities Act provides in part that no public utility shall issue any stocks or stock certificates or bonds, notes or other evidences of indebtedness, with certain exceptions, without having secured from this Commission an order authorizing such issue. As the guarantee to be endorsed by the Southern Pacific Company upon its equipment trust certificates is "a note or other evidence of indebtedness," it seems clear that in so far as the nature of the indebtedness is concerned, the case falls within the provisions of section 52 of the Public Utilities Act. This section, however, must be construed in connection with section 85 of the Public Utilities Act, reading as follows:

"Neither this act nor any provision thereof, except when specifically so stated, shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this Union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the acts of congress."

That these two sections must be construed together is elementary. Consequently, I am of the opinion that this Commission has no authority over the car equipment trust certificates involved in this proceeding in so far as their proceeds are to be used to purchase equipment which runs "among the several states of this Union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the acts of congress." I am of the opinion

that the assumption by this Commission of jurisdiction over the issue by a foreign corporation of equipment trust certificates in a foreign state, the proceeds whereof are to be used to purchase equipment used exclusively in other states or moving in interstate commerce, would be beyond its powers, under the provisions of section 85 of the Public Utilities Act, which section reaffirms the well established principles of law governing commerce among the several states and with foreign nations.

On the other hand, it seems equally clear, that with reference to the equipment, if any, which is to be used solely and exclusively in the State of California, this Commission has undoubted jurisdiction. particularly in the absence of action by the Federal Government in the matter of the issue of stocks, bonds and other securities of common carriers. This is not a case of possible conflict with Federal regulations, such as exist with reference to safety appliances, but a case in which the Federal Government has taken no action whatsoever and in which the equipment is used solely in the State of California, and largely, if not predominatingly for purely state business.

The Commission accordingly asked the applicant to make a segregation, if possible, so as to show what portion, if any, of the equipment which it is now desired to purchase is to be used exclusively within the State of California. The testimony, in response to this request, shows that the equipment to be purchased for all the lines of railway, other than the Pacific Electric Railway Company, is to be used either exclusively in other states or in journeys crossing state lines. While certain of the equipment to be acquired for the Southern Pacific Company and the Central Pacific Railway Company will at times be used entirely within this State, it appears that in general it will be used in interstate runs and that none of it will be used exclusively within this State.

On the other hand, the testimony shows that the equipment to be used by the Pacific Electric Railway Company is to be used exclusively within this State. The only doubt in the matter exists with reference to the box cars, and with reference to these, applicant's witness testified that it was unlikely that any of them would go out of the State. With reference to the flat cars, he testified that the chances for their going out of the State were even less than is the case with reference to the box cars, while the other classes of cars will all of them remain exclusively within this State.

I am accordingly of the opinion that this Commission has jurisdiction over this application in so far as affects the guarantee by the Southern Pacific Company of trust certificates to be used in purchasing the cars

to be used by the Pacific Electric Railway Company and that with respect to the remaining portion of the application, this Commission has no authority.

I expressed a desire at the hearing to prepare the order in this case in such form as to be sure to cause no embarrassment to the applicant. Such embarrassment might follow if this Commission dismissed a portion of the application and if the bankers who are to loan the money thought that the Commission might, nevertheless, have jurisdiction with reference thereto or to any portion thereof. The applicant accordingly requested that the Commission issue its authorization with reference to the entire contemplated issue of certificates. In order to in no way embarrass applicant, I recommend that this course of procedure be adopted, but in so doing it should be distinctly understood that this Commission is not trying to exercise power which does not belong to it and that it is not trying to collect fees in excess of those to which it is properly entitled, but that it is animated by a desire to throw no stumbling blocks in the way of the Southern Pacific Company, and to be of all possible assistance to that company in its legitimate financing.

While I shall recommend the granting of the application *in toto*, I do not believe that this Commission should collect a fee in excess of that which under the provisions of section 57 of the Public Utilities Act, is due on that portion of the certificates which are to be used in paying for equipment over which this Commission clearly has jurisdiction. I shall accordingly recommend that the fee be limited to a fee on the Pacific Electric Railway Company equipment. While I do not believe that it is necessary to secure this Commission's consent for the execution of the lease of the equipment, or for authority to enter into the agreement, apart from the guarantee of the certificates, I shall nevertheless recommend that, in accordance with the request of the Southern Pacific Company, the order cover this feature of the application, as well as the others, so that there may be no doubt as to whether or not the Southern Pacific Company has secured the complete necessary authorization.

I recommend the following form of order:

ORDER.

Southern Pacific Company having applied to the Railroad Commission for an order authorizing it to enter into an agreement with Harry E. Righter and William L. Fry and Commercial Trust Company of Philadelphia, under date of September 2, 1913, and also a lease of railroad equipment from Commercial Trust Company of Philadelphia, dated September 2, 1913, a copy of which proposed agreement and lease

are filed with the application herein and marked "Exhibit A," and also for an order of this Commission authorizing the guarantee by said Southern Pacific Company of its car equipment trust certificates, Series B, of the aggregate principal amount of two million and ten thousand dollars (\$2,010,000), bearing dividends at the rate of four and one half ($4\frac{1}{2}$) per cent per annum, payable on the first day of March and the first day of September of each year, said certificates to be paid in ten (10) annual installments, payable respectively on September first of each year from September 1, 1914, to September 1, 1923, inclusive, a form of said equipment trust certificates and of the guarantee of the Southern Pacific Company thereon being contained in said copy of agreement, and also authorizing said company, in order to obtain subscriptions for said equipment trust certificates, to pay discounts and commissions not to exceed six (6) per cent on the basis of the average maturities of said equipment trust certificates; and a public hearing having been held on said application, and it appearing to this Commission that the equipment to be obtained by the Southern Pacific Company under the terms of said lease and said agreement is reasonably required in the conduct of its business, and that the proceeds of said car equipment trust certificates are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that said application be and the same is hereby granted, subject to the following conditions:

1. Southern Pacific Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of said car equipment trust certificates, in so far as they affect the equipment to be used by the Pacific Electric Railway Company exclusively within the State of California, and on or before the twenty-fifth day of each month, shall make a verified report to this Commission stating the sale or sales of said equipment trust certificates, with the terms and conditions thereof, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, but only in so far as applicable, is made a part of this order.

2. The authority hereby given shall become effective only when the Southern Pacific Company shall have paid the fee prescribed in section 57 of the Public Utilities Act, as amended, which fee shall be calculated only on the Pacific Electric Railway Company equipment and which amounts to four hundred and eight dollars (\$408.00).

The foregoing opinion and order are hereby **approved and ordered** filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of September, 1913.

DECISION No. 948.

CITY OF TULARE

vs.

SOUTHERN PACIFIC COMPANY AND THE ATCHISON,
TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 421.

Decided September 15, 1913.

REPORT OF THE COMMISSION.

ORDER DISMISSING COMPLAINT.

Upon written request of the complainant in the above entitled proceeding, on file with this Commission,

It is hereby ordered that said complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of September, 1913.

DECISION No. 949.

IN THE MATTER OF THE APPLICATION OF HIHN WATER
COMPANY FOR AN ORDER AUTHORIZING THE ISSUE
OF STOCK.

Application No. 689.

Decided September 15, 1913.

REPORT OF THE COMMISSION.

ORDER DISMISSING APPLICATION.

Upon written request of the applicant in the above entitled proceeding, on file with this Commission,

It is hereby ordered that said application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 15th day of September, 1913.

DECISION No. 950.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED AND FIFTY-FOUR THOUSAND DOLLARS.

Application No. 616.

Decided September 16, 1913.

A. L. Chickering, of Chickering & Gregory, for Applicant.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner.*

Whereas it appears that, in the order issued and signed in the above entitled application, an error was made in the numbers of the bonds, such numbers being given as M3896 to M4246, both inclusive, where such numbers should have been M3896 to M4249, both inclusive,

It is hereby ordered that the first paragraph of said order be corrected to read as follows:

Whereas the Western States Gas and Electric Company has applied to the Commission for permission to issue its bonds of the face value of \$354,000.00, being bonds numbered M3896 to M4249, both inclusive, for the purpose of refunding obligations incurred in construction, additions, and betterments to its plant or system.

Otherwise, the opinion and order as issued under date of August 30, 1913, to remain unchanged.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of September, 1913.

DECISION No. 951.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC
TELEPHONE AND TELEGRAPH COMPANY TO WITH-
DRAW FROM AND THE FARMINGTON TELEPHONE
ASSOCIATION TO ENTER CERTAIN TERRITORY IN AND
ADJACENT TO THE TOWN OF FARMINGTON, SAN
JOAQUIN COUNTY, CALIFORNIA.

Application No. 681.

Decided September 19, 1913.

Application of the Pacific Telephone and Telegraph Company and the Farmington Telephone Association, the former to withdraw and the latter to enter certain territory adjacent to the town of Farmington, granted.

H. A. Johnson, for the Pacific Telephone and Telegraph Company.

J. L. Wilson and *D. E. Young*, for Farmington Telephone Association.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is a joint application involving the withdrawal of The Pacific Telephone and Telegraph Company from certain territory, in which it is operating a telephone system as a public utility, in favor of the Farmington Telephone Association, operating a telephone system as a public utility in the same territory. It involves also a connection between the lines of the two companies involved for the interchange of long distance toll service.

The Farmington Telephone Association operates a system of rural or farmer lines connecting with the association's switchboard at Farmington in territory from which the Pacific Company desires to withdraw, and there appears to be no objection to allowing the local company to serve this territory.

It is desired by the applicants to enter into a connecting agreement providing for the interchange of traffic. The proposed connecting agreement provides for the payment by The Pacific Telephone and Telegraph Company to the local company of 15 per cent of its toll revenue on paid messages originating on the lines of the local company. It provides also that the local company shall, at its own expense, keep the toll lines of The Pacific Telephone and Telegraph Company within the town limits of Farmington, clear and in good working order at all times.

It was agreed at the hearing that the connecting agreement shall be so modified as to provide for the payment by The Pacific Telephone and Telegraph Company to the local company of not less than 30 per cent of originating paid tolls, or the equivalent of 30 per cent divided between originating and incoming tolls, and to provide for The Pacific Telephone and Telegraph Company to keep, at its own expense, its toll lines within the town limits of Farmington clear and in good working order at all times.

The following order is therefore recommended:

ORDER.

Application having been made by The Pacific Telephone and Telegraph Company and by the Farmington Telephone Association, the one to withdraw from certain territory in San Joaquin County, California, and the other to enter the said same territory, as defined in that certain proposed connecting agreement filed with this application, and a hearing having been held thereon and no reasonable objection appearing,

It is hereby ordered that the application of The Pacific Telephone and Telegraph Company and the Farmington Telephone Association, the one to withdraw from certain territory in San Joaquin County, California, and the other to enter the said same territory as a public utility operating a telephone system, as hereinbefore provided, be and the same is hereby granted; provided, that the proposed connecting agreement herein referred to shall be so modified as to provide for the payment by The Pacific Telephone and Telegraph Company to the Farmington Telephone Association of not less than 30 per cent of originating paid tolls, or the equivalent thereof, divided between originating and incoming tolls.

And provided, further, that the proposed connecting agreement, herein referred to, shall be so further modified as to provide for The Pacific Telephone and Telegraph Company, at its own expense, to keep its toll lines within the town limits of Farmington clear and in good working order at all times.

And provided, further, that this permission is not to be taken as an approval of the rates, since this Commission has not as yet passed upon their ultimate reasonableness. Except as to rates, which may, if desired, be and become effective as of the date of this order, this order to be and become effective upon the filing with this Commission of a revised connecting agreement on the part of the two companies involved. The said filing to be made within thirty days of the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1913.

Decision No. 952, grade crossing; not printed. See end of volume.

DECISION No. 953.

IN THE MATTER OF THE APPLICATION OF ARTHUR W. SLOAN AND FRANK ROSEBROUGH TO SELL THE SYSTEM OF THE NORDHOFF WATER COMPANY TO THE OJAI POWER COMPANY; AND OF OJAI POWER COMPANY FOR A CERTIFICATE DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF CERTAIN FRANCHISE RIGHTS; AND OF OJAI POWER COMPANY TO ISSUE STOCK OF THE PAR VALUE OF TEN THOUSAND DOLLARS; AND OF OJAI IMPROVEMENT COMPANY TO LEASE A CERTAIN WATER SYSTEM TO OJAI POWER COMPANY.

Application No. 577.

Decided September 19, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

GORDON, *Commissioner*.

It is hereby ordered by the Railroad Commission of the State of California that the order of this Commission, dated August 30, 1913, upon the application herein be amended by changing the following paragraph:

"And it is further ordered that Ojai Power Company be and it hereby is authorized to issue a promissory note of the face value of \$2,500.00, payable not later than November 24, 1915, at a rate of interest not to exceed 8 per cent, said note to be given in part payment for the water system of the Nordhoff Water Company herein authorized to be transferred, said note to be secured by a deed of mortgage, executed by Ojai Power Company, and covering all of the real property included in the water system of the Nordhoff Water Company herein authorized to be transferred; provided, however, that said mortgage shall not be executed until a form thereof has been filed with and approved by this Commission,"

as follows:

And it is further ordered that Ojai Power Company be and it is hereby given authority to assume the obligation to pay a promissory note of the face value of \$2,500.00, issued by Arthur W. Sloan and Frank Rosebrough, payable November 24, 1915, with interest at 8 per cent per annum, said note having been

assumed in part payment for the water system of the Nordhoff Water Company herein authorized to be transferred, said note being secured by a mortgage executed by Arthur W. Sloan and Frank Rosebrough, and covering all of the real property included in the water system of the Nordhoff Water Company herein authorized to be transferred.

It is further ordered that the authority given to Ojai Power Company in the order of this Commission dated August 30, 1913, upon the application herein to issue a note of \$2,500.00 and to account for the proceeds from the sale thereof, be amended to an authorization to Ojai Power Company to assume the obligation to pay a note in the sum of \$2,500.00, maturing November 24, 1915, and bearing interest at 8 per cent per annum, issued by Arthur W. Sloan and Frank Rosebrough, upon the security of a mortgage covering all of the real property included in the water system of the Nordhoff Water Company.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1913.

DECISION No. 954.

W. C. PENOYAR ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 376.

Decided September 19, 1913.

Complainant alleges discrimination on the part of defendant, namely, the furnishing of inferior equipment, and asks reparation in the sum of \$10,000.00 to cover losses sustained thereby; complainant also alleges discrimination in rates, and asks reparation in the sum of \$8,444.66; and also petitions the Commission to establish a just and reasonable rate for such services as were required by complainant prior to its suspension of operation.

Held, That the Commission has no jurisdiction either to compel carriers to make reparation for losses sustained through the furnishing of inferior equipment, or to make reparation on rates established by the Commission prior to October 10, 1911.

Held, That as complainant is not operating at the present time and has no immediate intention of resuming operation, there is no necessity at the present time of establishing new rates for this service. Complaint is therefore dismissed.

Frank H. Gould, for Complainants.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

The complaint in this case was filed on March 12, 1913. It alleges, in effect, that the complainants are partners engaged in the business of manufacturing lumber at their mills in the town of Igerna, in Siskiyou County, California; that in this business complainants employed the defendant railroad company to transport their logs from Penoyar, Yanah and Kegg, to the complainants' said mills at Igerna, and that in compensation for such services, complainants paid to the defendant certain specified moneys during the seasons of 1908, 1909, 1910, and 1911; that during the same period, the defendant charged the Weed Lumber Company for hauling logs from the Weed spur to Weed, in the same county and partially in the same district, certain sums which were considerably less than those which would have been collected if the defendant had charged the same rate to the Weed Lumber Company which it charged the complainants; that the shipments transported by the defendant for the complainants were carried substantially the same distance as those which were carried by defendant for Weed Lumber Company; that defendant discriminated in favor of Weed Lumber Company and against complainants, in that it delivered for the use of Weed Lumber Company certain short, wide cars specifically designed for the hauling of one tier of logs, called the Russell logging cars, while it supplied for the use of complainants an inferior, narrow, long car, not designed for logging; that because of the old and decrepit condition of the cars supplied to complainants, the extra expense of loading the same and the extra labor required to handle the logs while loading said cars, the defendant discriminated against complainants to their damage in the sum of more than \$10,000.00; and that because of said alleged discrimination against complainants in favor of Weed Lumber Company, complainants were compelled to operate their mills practically without profit and were finally compelled to close their mills and discontinue all work at Igerna.

The relief requested by complainants is of three kinds, as follows: (1) that defendant be enjoined from discriminating against complainants in the supply of cars and that the defendant make reparation to the complainants because of alleged discrimination in the supply of cars, in the sum of \$10,000.00, with interest; (2) that defendant be ordered to make reparation to the complainants for alleged discriminations in rates heretofore collected, in the sum of \$8,444.66; (3) that this Commission establish rates to be charged by defendant for transportation between points between which the complainants may desire to ship, said rates not to exceed those now charged for similar services to the Weed Lumber Company.

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On June 17, 1913, the defendant filed its answer denying all the material allegations of the complaint. The answer also alleges that this Commission does not have jurisdiction to award reparation, either for the alleged discrimination in rates or the alleged discrimination in the character of the equipment supplied to complainants.

The hearing in this case was held on August 22, 1913. Complainants introduced evidence in support of each of the three prayers of the complaint. It appeared at the hearing that the mills of the complainants at Igera have been closed for more than a year. While the witness for the complainants stated that he might reopen the mills, there is no definite testimony to this effect in the record. At the close of the hearing complainants were given ten days within which to submit a memorandum of points and authorities, if they should desire. The complainants have now stated that they do not desire to submit such memorandum and the case is ready for decision.

I shall now consider the three prayers of the complaint in order:

1. *Discrimination in supply of equipment.*

Complainants introduced evidence to show that the defendant had supplied to complainants certain long and narrow cars for the transportation of logs, which cars complainants contend are inferior to cars of the Russell type, which the defendant during the same period supplied to the Weed Lumber Company. The Weed Lumber Company was moving its logs from Weed spur and vicinity, to Weed, while the complainants were moving their logs from points beyond Weed spur, through that point and through Weed to Igera, which point is located some $2\frac{1}{2}$ miles south of Weed. Complainants also introduced testimony to show that by reason of the difference in the type of car, it had suffered considerable pecuniary loss as contrasted with the Weed Lumber Company. Defendant contended that the Russell type of car was supplied to the Weed Lumber Company because the grades in connection with bringing the logs of that company to Weed spur from the branch line were steeper than those in connection with the movement of complainants' logs and that the Russell type of cars was supplied to the Weed Lumber Company for the reason that their brakes were better. Defendant also contended that it was bound by contract to supply cars of the Russell type to the Weed Lumber Company. It becomes unnecessary to pass upon the question of whether discrimination was, in effect, practiced by the defendant, for the reason that complainants' remedy, if any, is an action at law against defendant to recover the damages which they may have sustained. While this Commission has power to compel the railroad corporations operating in this State to supply good and sufficient equipment to all shippers and to treat all shippers alike

in this respect, the facts being similar, the Commission has no power to award damages for failure in the past to treat shippers alike in the matter of the quality of the equipment supplied to them. Consequently, this portion of the complaint must be dismissed.

2. *Discrimination as to rates.*

As hereinbefore stated, complainants base a portion of their claim to relief on alleged discrimination in freight rates on logs practiced by the defendant in favor of the Weed Lumber Company and against the complainants. It appears from the minutes of the Board of Railroad Commissioners, under date of November 10, 1908, that on that day the tariffs of the Southern Pacific Company containing the rates of charges which were collected respectively from the complainants and from the Weed Lumber Company were formally established as the lawful tariffs to be charged for these respective services, in accordance with the provisions of section 22 of article XII of the constitution of this State as it existed prior to October 10, 1911. This section provided, in part, that it should be the duty of the Board of Railroad Commissioners to establish rates of charges for the transportation of passengers and freight and to publish the same from time to time, with such changes as they might make. The section also provided, in part, that in all controversies, civil or criminal, the rates of fares and freights established by said Board should be deemed "*conclusively just and reasonable.*" As the Board of Railroad Commissioners established the rates charged by the defendant both to the complainants and to the Weed Lumber Company, and as those rates were, by the constitution itself, made conclusively just and reasonable, it would seem to follow that it was not legally possible for discrimination to exist as between these rates so long as the action of the Board of Railroad Commissioners remained in effect. The system of rates provided by the constitution prior to October 10, 1911, was a system of state-made rates as distinguished from the present system of railroad-made rates under public supervision. If the Board of Railroad Commissioners prior to October 10, 1911, established rates which, in fact, were discriminatory, the remedy was an appeal to the Board of Railroad Commissioners to change those rates and to remove the discrimination. If the Southern Pacific Company could be held liable under these conditions for discrimination in charging the rates established by the Board of Railroad Commissioners, it is evident that that company would be in a position which the law never could have contemplated. If the company charged the rates prescribed by the Board of Railroad Commissioners it could be held liable on complainants' theory for discrimination; on the other hand, if the company disobeyed the order of the Board and charged rates

different from those prescribed, so as to remove a discrimination in fact, the company would be liable to the penalties prescribed in section 22 of article XII, as follows:

“Any railroad corporation or transportation company which shall fail or refuse to conform to such rates as shall be established by such commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system prescribed by the commission, shall be fined not exceeding twenty thousand dollars for each offense.”

It can not be that the company would be liable for discrimination if it obeyed the Board's order and penalized in the sum of \$20,000.00 for each offense if, in order to remove discrimination in the rates, it disobeyed the Board's order. This Commission heretofore, in Case No. 283, *Scott, Magner and Miller vs. Western Pacific Railway Company*, held in a matter involving the reasonableness of rates as distinguished from discrimination in rates, that the rates established by the Board of Railroad Commissioners prior to October 10, 1911, must be held as provided by section 22 of article XII of the constitution, to be conclusively just and reasonable and that no right of action arose on the doctrine of reasonableness or unreasonableness against any railroad company which collected the rates actually established by the Board of Railroad Commissioners. The same reasoning would seem to apply to the doctrine of discrimination if, in fact, there be any difference between these two doctrines as applied to this situation. If injustice arose by reason of these constitutional provisions and the action of the old Board of Railroad Commissioners thereunder prior to October 10, 1911, the only answer is that it was an injustice which was caused by the constitution and the dormant public sentiment of those times. The people of this State, by amending their constitution and enacting the Public Utilities Act and providing for the appointment of the Railroad Commission as at present constituted, have remedied these conditions for the future. It follows that the complaint, in so far as it relies on this cause of action, must be dismissed.

3. *Establishment of rates for the future.*

Complainants also ask that rates be established for the future between the points between which complainants formerly shipped logs and that these rates shall not exceed those accorded to the points between which the Weed Lumber Company makes its shipments. The evidence in this case seems to show that the rates accorded the Weed Lumber Company have been more favorable than those made applicable to movements between points between which the complainants in this case formerly shipped their logs. The defendant contends that the relatively lower

rates enjoyed by the Weed Lumber Company are a part consideration for the contract by which the Weed Lumber Company sold to the California and Northeastern Railway Company, the predecessor of the Southern Pacific Company, the line of railway extending from Weed northeasterly, over which shipments were made both for the complainants and the Weed Lumber Company. There is no evidence, however, to show to what extent, if at all, these relatively lower rates entered into the consideration of the contract. Prima facie, the Southern Pacific Company ought to accord to persons shipping between points between which the complainants used to ship the same relative rates which it accorded and still accords to the Weed Lumber Company. It becomes unnecessary, however, to establish new rates in this proceeding, for the reason that complainants are not at present operating their mill, and there is no positive evidence as to when, if at all, they will resume operations. The request for the establishment of new rates seems to have been made in the complaint merely as incidental to the main relief asked by the complainants, which was the award of damages for discrimination resulting from the practices of the defendant in the past, both as to rates and as to equipment.

If the complainants hereafter proceed to re-establish their business at Igerna, they may then come before this Commission and ask the Commission to establish the rates which shall govern their movements of logs and other freight.

I find that the complainants are not entitled to relief, at present, on either of their three prayers. I am accordingly constrained to recommend that the complaint be dismissed.

I submit herewith the following form of order:

ORDER.

The above entitled proceedings having come on for a public hearing on August 22, 1913, and evidence having been introduced by both parties, and the case having been submitted, and the Commission finding that the complaint states no ground for relief,

It is hereby ordered that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1913.

Decision No. 955, grade crossing; not printed. See end of volume.

DECISION No. 956.

IN THE MATTER OF THE APPLICATION OF MIDLAND
COUNTIES PUBLIC SERVICE COMPANY FOR AN ORDER
AUTHORIZING THE ISSUE AND SALE OF CERTAIN
STOCKS AND BONDS.

Application No. 515.

Decided September 22, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The Commission having to-day received written request that the above entitled application be dismissed,

It is hereby ordered that the above entitled application be and the same hereby is dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 22d day of September, 1913.

DECISION No. 957.

IN THE MATTER OF THE APPLICATION OF HUGH A. BOYLE
FOR AN ORDER FIXING A MINIMUM RATE AND
AUTHORIZING AN INCREASE IN THE RATE FOR WATER
SERVED IN TIBURON, CALIFORNIA.

Application No. 404.

Decided September 22, 1913.

Harry F. Sullivan, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Hugh A. Boyle having applied to this Commission for permission to put into effect for water served in Tiburon, California, a flat rate of \$1.50 per month, in cases where meters are not installed, and a rate of \$1.00 per hundred cubic feet of water, with a minimum of \$1.50

per month, in cases in which meters have been installed, and also to put into effect a meter installation charge of \$15.00, the present rate in effect being solely a meter rate of 50 cents per hundred cubic feet, and applicant having at the hearing upon this application voluntarily offered to amend this application so as to request a charge in the case of metered service of only 60 cents per hundred cubic feet of water, and it appearing that at present applicant has only twenty-three consumers, and it appearing to the Commission that in view of all the circumstances surrounding the supply of water by applicant to his consumers in Tiburon, including a consideration of the value of applicant's water system, the rates which applicant desires to put into effect are not excessive, except that the Commission is of the opinion that the minimum rate for metered service should not exceed \$1.00 per month,

It is hereby ordered that Hugh A. Boyle be and he is hereby authorized to put into effect on and after October 1, 1913, the following rates for water served in Tiburon, California:

Flat rate \$1.50 per month;

Meter rate 60 cents per hundred cubic feet, with a minimum of \$1.00 per month.

Applicant may at his option install meters upon any unmetered services, the expense of such installation to be borne by applicant. In all other respects, application in this proceeding is denied.

By order of the Railroad Commission.

Dated at San Francisco, California, this 22d day of September, 1913.

DECISION No. 958.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER APPROVING ITS CHARGE AND RATES FOR ELECTRIC ENERGY TO BE FURNISHED TO ORO ELECTRIC CORPORATION UNDER AN AGREEMENT DATED AUGUST 30, 1913.

Application No. 734.

Decided September 22, 1913.

Application of the Pacific Gas and Electric Company for approval of certain rates contained in a contract entered into between applicant and Oro Electric Corporation granted.

C. P. Cutten, for Pacific Gas and Electric Company.

Samuel Knight, for Oro Electric Corporation.

E. V. D. Johnson and *Edward Haley*, for Northern California Power Company, Consolidated.

Chickering & Gregory and *Allen Chickering*, for Western States Gas and Electric Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application on the part of the Pacific Gas and Electric Company for an order of this Commission authorizing the applicant to charge a uniform rate of seven tenths of one cent per kilowatt hour for electric energy to be delivered to Oro Electric Corporation for distribution by that corporation in the counties of Calaveras, Butte and San Joaquin. This rate is contained in a certain contract dated August 30, 1913, between Pacific Gas and Electric Company and Oro Electric Corporation, a copy whereof is attached to the petition herein and marked "Exhibit C." This contract will hereinafter be considered in greater detail. The authority of this Commission for the establishment of the proposed rate is necessary by reason of the fact that with reference to Calaveras County, and possibly with reference to Butte County, the proposed rate is an increase over the rate which is at the present time being paid by the Oro Corporation to Pacific Gas and Electric Company for service in those counties under existing contracts between these companies. Section 63 (a) of the Public Utilities Act provides in part that no public utility shall raise any rate or charge except upon a showing before the Commission and a finding by the Commission that such increase is justified.

The Pacific Gas and Electric Company and the Oro Electric Corporation appeared in support of the application. The Northern California Power Company, Consolidated, appeared in opposition thereto. The Western States Gas and Electric Company appeared to draw the attention of this Commission to the fact that under a contract of that company with the Pacific Gas and Electric Company for electric energy distributed by the latter in certain portions of San Joaquin County, the Western States Gas and Electric Company is paying .9 of 1 cent per kilowatt hour, while the price named in the proposed contract between the Pacific Gas and Electric Company and the Oro Electric Corporation for electric energy to be distributed in the same territory is only .7 of 1 cent per kilowatt hour. The Pacific Gas and Electric Company contends that the load factor in the two cases is different and that this difference accounts for the difference in the rate.

The Oro Electric Corporation now has outstanding four contracts which it becomes necessary to consider in this application.

A contract dated March 7, 1912, with the Pacific Gas and Electric Company provides for the supply by Pacific Gas and Electric Company to Oro Electric Corporation of electric energy to be used by the latter company to operate its dredgers near Camanche, in Calaveras County. The price specified is .6 of 1 cent per kilowatt hour. The contract is to continue for two years after the date on which energy is first used thereunder, which date was some time in March of this year. This contract, accordingly, would continue to run until March, 1915.

A contract dated March 7, 1912, with Pacific Gas and Electric Company provides for the supply by that company to Oro Electric Corporation of electric energy to be distributed by the Oro Corporation in the city of Oroville and vicinity. The Oro Corporation is to pay .7 of 1 cent per kilowatt hour, if the amount of electric energy delivered is less than 3,571,400 kilowatt hours per year. If the amount of electric energy delivered is in excess of this amount, the rate to be paid for all the energy delivered shall be .65 of 1 cent per kilowatt hour. This contract provides for a minimum payment of \$12,000.00 per year. The life of the contract is two years from the date thereof.

A contract dated October 5, 1912, provides for the delivery by Northern California Power Company, Consolidated, of not to exceed 3,000 kilowatts of electric energy to be distributed in the counties of Butte, Yuba, Sutter and Yolo, excepting Oroville and vicinity, from the date thereof until the Oro Corporation's Yellow Creek development shall have been placed in commercial operation. The rate specified in the contract is .6 of 1 cent per kilowatt hour. The Oro Corporation is obligated to build at its own expense a line from near Biggs, in Butte County, to Princeton, in Colusa County, to receive electric energy under this contract. The line has been built and is now in operation.

A contract dated December 2, 1912, provides for the delivery by Northern California Power Company, Consolidated, to Oro Electric Corporation of not to exceed 15,000 kilowatts at .5 of 1 cent per kilowatt hour, until the Oro Corporation's Yellow Creek development is in operation. The contract provides for a minimum payment of \$4,000.00 per month from December 1, 1913, to July 1, 1914, and \$12,500.00 per month thereafter. The contract also provides that the Oro Corporation shall advance or loan to the Northern California Power Company, Consolidated, for expense involved in the preparing for service under the contract, the sum of \$250,000.00 at 6 per cent interest, this sum to be repaid to the Oro Corporation at the rate of 75 per cent of the amount of the bills each month. The electric energy is to be delivered by the

Northern California Power Company, Consolidated, at a point on its line about four miles north of Colusa. The contract provides in part that the Oro Corporation agrees to purchase from the Northern California Power Company, Consolidated, exclusively all the electric power which is to be distributed by it within the State of California, with certain exceptions, including Oroville and vicinity and territory contiguous to the lines of the Northern California Power Company, Consolidated, or the lines of the Oro Electric Corporation and territory in which the existing contracts of the Oro Corporation prevent the use of power to be taken under the contract with the Northern California Power Company, Consolidated, and excepting also such power as may be developed by the Oro Corporation in its own plants.

Each of the foregoing four contracts purport to provide for exclusive rights in the territories therein respectively named.

The contract dated August 30, 1913, under which it is now proposed by the Pacific Gas and Electric Company to supply electric energy to the Oro Corporation, provides for the sale and delivery by Pacific Gas and Electric Company and the purchase by Oro Electric Corporation of electric energy as follows, at the rate of .7 of 1 cent per kilowatt hour:

1. All of the electric energy over and above the amount of electric energy generated by the consumer, which shall be required for the operation of the electrical machinery and apparatus and in the conduct of the consumer's business upon the consumer's premises situate in the city of Oroville and vicinity, in the county of Butte, state aforesaid, and for the sale by the consumer to the latter's consumers of electric energy for use by them in the said county of Butte, except the cities and towns of Chico, Biggs and Gridley.

2. All of the electric energy, not exceeding 2,000 kilowatts, which shall be required by the consumer for sale to the latter's consumers of electric energy for use by them within that portion of the county of San Joaquin, State of California, in which the consumer obtained from the Railroad Commission of the State of California, on or about the 3d day of July, 1913, permission to supply electricity.

3. All of the electrical energy, which shall be required for the operation by electricity of the consumer's own gold dredger situate at Camanche, in the county of Calaveras, State of California, and for sale by the consumer to the Isabel Gold Dredging Company for the operation of the latter's gold dredger, situate at Jenny Lind, in the said county of Calaveras.

The energy is to be delivered at 4,000 volts for Butte County, at 11,000 volts for San Joaquin County and at 60,000 volts for Calaveras

County. No minimum payment is provided. The term of the contract is to be one year after the date when electric energy shall first be delivered, and thereafter until terminated by thirty days' written notice by either party.

The immediate occasion for the entry into this contract on the part of the Oro Corporation is its need for electric energy to serve certain portions of San Joaquin County lying outside of the city of Stockton. The Oro Corporation's steam plant, which is situated partly within and partly outside of the city of Stockton, is operating only during a portion of each twenty-four hour period. The Oro Corporation needs current during the entire twenty-four hour period, so that it may make delivery in the country districts lying outside the city of Stockton. The Pacific Gas and Electric Company testified that because of certain additional substation equipment and other property which it will be necessary for that company to procure, to supply the desired electric energy to the Oro Corporation in the city of Stockton, it would not be willing to make a contract to supply this electric energy in Stockton at the rate of .7 of 1 cent per kilowatt hour. The company is willing, however, to supply the energy at this rate if it also receives the same rate for the energy supplied in Calaveras and Butte counties.

I shall now consider somewhat more in detail the bearing of the proposed contract on service by the Oro Corporation in each of the three counties affected.

In San Joaquin County, the Pacific Gas and Electric Company has not heretofore sold electric energy to the Oro Corporation. In other words, in so far as this county is concerned, the proposed rate is an entirely new rate. Delivery will be made by the Pacific Gas and Electric Company at its substation in Stockton. The Oro Corporation will then transmit the energy over a transmission line which it has constructed under the Commission's authority solely for this purpose, to the Oro Corporation's steam plant, located partly within and partly outside the city of Stockton, whence it will be distributed by the Oro Corporation in portions of San Joaquin County outside of the city of Stockton. None of the electric energy so delivered will be used within the city of Stockton.

In Butte County, the Oro Corporation took sufficient current from the Pacific Gas and Electric Company during the year ending February 28, 1913, to entitle the Oro Corporation to the rate of .65 of 1 cent per kilowatt hour. The witness for the Pacific Gas and Electric Company testified that in his opinion this would not be the case during the present year. In that event, the rate of .7 of 1 cent per kilowatt hour would be charged even under the existing contract, so that the

rate specified in the proposed contract would not be an increase. The proposed contract, however, extends the territory for which the Oro Corporation is at present taking current from the Pacific Gas and Electric Company in Butte County in such a way that the Northern California Power Company, Consolidated, claims a breach of its alleged exclusive contract with the Oro Corporation providing for a rate of .6 of 1 cent per kilowatt hour for this same territory.

In Calaveras County, the Oro Corporation is at present taking power from the Pacific Gas and Electric Company for the Oro Corporation's own dredgers near Camanche at the rate of .6 of 1 cent per kilowatt hour. It is now proposed to increase this rate to .7 of 1 cent and to sell additional electric energy at the same rate, to be supplied by Oro Corporation to the Isabel Gold Dredging Company. While an increase in the rate will result in this county, the Oro Corporation testified that it was satisfied with the increase for the reason that it would thereby secure a rate of .7 of 1 cent for the current to be distributed by it in San Joaquin County.

The Northern California Power Company, Consolidated, protested against the grant of the application on the ground that if the Oro Corporation takes its electric energy from the Pacific Gas and Electric Company under the terms of its proposed contract, it will thereby break its contract for exclusive service from the Northern California Power Company, Consolidated. While the latter company can not at present deliver electric energy for distribution by the Oro Corporation in San Joaquin and Calaveras counties for the reason that the Oro Corporation has not as yet constructed its proposed transmission line from the point of connection with the lines of the Northern California Power Company, Consolidated, in Colusa County to San Joaquin and Calaveras counties, the Northern California Power Company, Consolidated, does claim to be willing and able to deliver the amount of electric energy needed by the Oro Corporation for Butte County, outside of Oroville and vicinity, in accordance with the contract dated October 5, 1912, between these two companies. Whether or not the delivery of electric energy by the Pacific Gas and Electric Company to the Oro Corporation under the proposed contract would amount to a breach of the contract between the Northern California Power Company, Consolidated, and the Oro Electric Corporation is a matter to be determined by the courts and not by this Commission.

At the same time, this Commission will not take any action which may have the effect of prejudicing the Northern California Power Company, Consolidated, in any action which that company may believe that it has or may have against the Oro Corporation for breach of

contract. It must be clearly understood that this Commission does not approve the exclusive feature of the proposed contract or anything else connected therewith other than the rate. This Commission's consent is not necessary to the execution of the contract, but only to the effectiveness of the rate therein specified and its authority hereby given is confined thereto.

While the matter is not entirely free from doubt, I am inclined, particularly in view of the apparent need of the Oro Corporation for additional current for distribution in San Joaquin County, to recommend that the application be granted.

It should be distinctly understood that this Commission has not had an opportunity to examine whether .7 of 1 cent per kilowatt hour is or is not a reasonable rate to be paid for electric energy at wholesale under the conditions specified in this contract and that the approval of this rate shall not be taken as in any way expressing the view that this rate is a reasonable rate in any of the three counties affected.

I submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company having applied for the authority of this Commission to make effective a rate of seven tenths (.7) of one (1) cent per kilowatt hour for electric energy to be supplied to the Oro Electric Corporation in the counties of Calaveras, Butte and San Joaquin, under the conditions specified in contract between said parties, dated August 30, 1913, a copy whereof is attached as Exhibit "C" to the petition in this proceeding, and a public hearing having been held on said application, and it appearing that the application should be granted subject to the observations contained in the opinion.

It is hereby ordered that the rate of seven tenths (.7) of one (1) cent per kilowatt hour to be paid by Oro Corporation to Pacific Gas and Electric Company for electric energy supplied may be made effective on one day's notice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of September, 1913.

DECISION No. 959.

IN THE MATTER OF THE JOINT APPLICATION OF NORTHERN ELECTRIC RAILWAY COMPANY AND PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE SALE AND ASSIGNMENT OF CERTAIN MOTOR GENERATOR SETS AND APPLIANCES BY THE NORTHERN ELECTRIC RAILWAY COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY.

Application No. 732.

Decided September 22, 1913.

Application of the Northern Electric Railway Company to sell certain motor generator sets and appliances to the Pacific Gas and Electric Company *granted*.

T. T. C. Gregory and *A. B. Eddy*, for Northern Electric Railway Company.

C. P. Cullen, for Pacific Gas and Electric Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application on the part of the Northern Electric Railway Company to sell and of the Pacific Gas and Electric Company to purchase three certain motor generator sets and appliances, described in the order herein, for the sum of \$21,339.00. Two of these generator sets have heretofore been used by the Northern Electric Railway Company at Chico and one at Marysville in connection with the receipt of alternating current from Pacific Gas and Electric Company. The latter company is now able to supply direct current. The substitution of direct current for alternating current will eliminate the necessity on the part of the Northern Electric Railway Company from continuing to use these motor generator sets and appliances, and will result in a saving to Northern Electric Railway Company of the services of two employees at Chico and of the maintenance and upkeep of these generator sets and appliances.

The Pacific Gas and Electric Company needs this equipment for use in its substation at Chico and elsewhere.

The equipment has been in use since 1907, and cost something over \$25,000.00 installed. The price of \$21,339.00 has been agreed upon by both companies as representing the present fair value of the equipment.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Northern Electric Railway Company and Pacific Gas and Electric Company having filed their joint application for authority to sell and to purchase the electrical equipment hereinafter described for the sum of twenty-one thousand three hundred and thirty-nine dollars (\$21,339), and a public hearing having been held upon said application, and it appearing that said equipment is no longer of service to Northern Electric Railway Company and that it can be used advantageously by Pacific Gas and Electric Company, and no good reason appearing to the contrary,

It is hereby ordered that Northern Electric Railway Company be and the same is hereby authorized to sell, and Pacific Gas and Electric Company be and the same is hereby authorized to purchase for the sum of twenty-one thousand three hundred and thirty-nine dollars (\$21,339) the following electrical equipment now owned by Northern Electric Railway Company.

Three (3) Westinghouse 400 kilowatt 600 volt direct current motor generator sets, as follows:

One (1) 400 kilowatt, 600 volt, 667 ampere, 6-pole generator, numbered 383931;

One (1) 400 kilowatt, 600 volt, 668 ampere, 6-pole generator, numbered 448455;

One (1) alternating current, type "CX," constant speed induction motor, 580 horsepower, 2,200 volt, 133 ampere per terminal 3-phase, numbered 383937;

One (1) alternating current, type "C," constant speed induction motor, 520 horsepower, 2,200 volt, 125 ampere per terminal 3-phase, numbered 447330;

Two (2) switchboards, consisting of:

Two (2) general electric alternating current motor panels, type "A. T. 1," numbers 36349 and 48323;

Two (2) general electric direct current generator panels, type "C. G. S.," numbers 36342 and 50519;

Four (4) general electric direct current feeder panels, type "C. S. F.," numbers 36343, 36344, 48322, 50521;

Together with instruments and attachments formerly at Northern Electric Substation No. 1, Mulberry, California, *excepting therefrom* two (2) Westinghouse alternating current starting panels S. O. 25530.

One (1) 400 kilowatt, 600 volt, 667 ampere, 6-pole generator, numbered 448447;

One (1) alternating current, type "CX," constant speed induction motor, 580 horsepower, 2,200 volt, 133 ampere per terminal 3-phase, numbered 447322, formerly at Northern Electric Substation No. 6, Marysville, California.

This authority is given on condition that the sum of twenty-one thousand three hundred and thirty-nine dollars (\$21,339) shall not be taken before this Commission or any other public authority as representing for rate fixing or any other purpose the true present value of said equipment.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of September, 1913.

DECISION No. 960.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE, SELL AND DELIVER THIRTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 526.

Decided September 23, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Southern California Edison Company having applied to this Commission for a modification of the order made and entered herein on the 2d day of July, 1913, said requested modification being to the effect that said Southern California Edison Company may pay \$5.00 per share of stock as commission, instead of \$2.50 as provided in said order.

The reason given for requesting such change is that it has been found impossible to market said stock with a limit of \$2.50 per share possible to be paid as commission, and it appearing to said Commission that said change is reasonable, and said application should be granted.

It is hereby ordered that paragraph 1 of the order made and entered by this Commission in this matter, dated July 2, 1913, is hereby amended so as to read as follows:

“1. Southern California Edison Company shall sell the stock hereby authorized so as to net said company not less than 82½ per

cent of the par value thereof, provided that if an agreement be entered into whereby 20,000 shares of said stock shall be underwritten, that is to say, that an agreement be made by responsible parties that they will take all of said 20,000 shares of stock at 82½ per cent of their par value, or so much thereof as may not be subscribed for at such price by the stockholders of applicant, then applicant may pay such persons entering into such agreement a sum not to exceed \$5.00 per share as commission, said commission to be paid when said stock is purchased. Provided that in no event shall the net sum resulting to the Southern California Edison Company from the sale of said stock, after deducting commissions, be less than \$77.50 per share.

Said order shall remain in all other respects in full force and effect as originally made and entered.

Dated at San Francisco, California, this 23d day of September, 1913.

DECISION No. 961.

IN THE MATTER OF THE APPLICATION OF A. A. WEBER,
FOR PRELIMINARY CERTIFICATE THAT PUBLIC CON-
VENIENCE AND NECESSITY REQUIRE THE EXERCISE
OF A RIGHT UNDER A FRANCHISE APPLIED FOR TO
THE CITY OF FOWLER, AND FOR AN ORDER AUTHORIZ-
ING SAID A. A. WEBER TO COMMENCE CONSTRUCTION
OF A GAS PLANT WITHIN SAID CITY OF FOWLER.

Application No. 757.

Decided September 22, 1913.

Application of A. A. Weber for a preliminary certificate authorizing the construction of a gas generation and distributing plant in the city of Fowler granted.

Edwards & Smith, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by A. A. Weber for a certificate that public convenience and necessity require the construction and operation of a gas generating and distributing plant in the city of Fowler and for an order authorizing said A. A. Weber to exercise rights and privileges under a franchise from the city of Fowler which he contemplates securing and for which he has made application, but which has not yet been granted.

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Fowler is an incorporated town of about 1,500 inhabitants, and there is no gas or similar service being furnished there at this time.

The members of the board of trustees appeared at the hearing and declared that there was great need of a gas service, and that inquiry among the residents showed a strong desire for the installation of such service. Furthermore, these city officials stated that Weber had applied to the board of trustees for a franchise for the installation and operation of a gas plant in the city, said franchise to contain a provision that gas shall be furnished at not to exceed \$1.25 per thousand feet, and that the members of the board were unanimous in favor of granting such franchise.

Weber proposes to construct and install a gas generating and distributing system adequate to serve one thousand consumers, at a cost of between \$17,000.00 and \$20,000.00.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by A. A. Weber for an order authorizing the exercise of rights and privileges under a franchise from the city of Fowler, to construct and operate a gas plant in said city, which has not yet been granted, but which said A. A. Weber contemplates securing and for which he had made application, and for an order declaring that public convenience and necessity require the construction and operation of a gas generating and distributing plant in said city of Fowler, and a hearing having been duly held and it appearing to the Commission that said application should be granted,

It is hereby ordered that this Commission will, upon the presentation to it of a franchise for the construction and operation of a gas generating and distributing plant, duly granted by the city of Fowler to said A. A. Weber, and satisfactory in form and terms to the Railroad Commission of the State of California, issue its certificate that public convenience and necessity require the exercise of rights and privileges under said franchise.

It is hereby further ordered that public convenience and necessity require the construction and operation of a gas generating and distributing system in the city of Fowler, California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of September, 1913.

Decisions Nos. 962, 963 and 964, grade crossings; not printed. See end of volume.

DECISION No. 965.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA AND HAWAIIAN SUGAR REFINING COMPANY FOR THE APPROVAL OF A SALE AND AWARD BY THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, OF A WHARF FRANCHISE IN SAID COUNTY OF CONTRA COSTA TO SAID CALIFORNIA AND HAWAIIAN SUGAR REFINING COMPANY, AND OF ORDINANCE NO. 131, GRANTING THE SAME.

Application No. 749.

Decided September 23, 1913.

Application of the California and Hawaiian Sugar Refining Company for the Commission's approval of a wharf franchise awarded by the board of supervisors of Contra Costa County, granted.

Donald Y. Campbell, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for the approval by this Commission of the sale and award by the board of supervisors of Contra Costa County, of a wharf franchise in said county to the California and Hawaiian Sugar Refining Company and of Ordinance No. 131 of said board of supervisors, approved September 15, 1913, granting the franchise.

The application to this Commission is made under the provisions of Chapter 557 of the Laws of 1913, reading as follows:

“SECTION 1. Section 2906 of the Political Code of the State of California is hereby amended to read as follows:

2906. The boards of supervisors of every county in this state may, upon approval of the Railroad Commission, grant authority to any person or corporation to construct a wharf, chute, or pier, on any lands bordering on any navigable bay, lake, inlet, creek, slough or arm of the sea, situate in or bounding their counties, respectively, with a license to take tolls for the use of the same for the term of twenty years.”

The amendment to the existing section 2906 of the Political Code consists in the insertion of the words “upon approval of the Railroad Commission.” Heretofore the power to grant such franchises has vested exclusively in the boards of supervisors. It is now provided that none

of these wharf franchises shall take effect until they are approved by the Railroad Commission.

Some doubt has been expressed as to whether this statute is applicable to a corporation such as the California and Hawaiian Sugar Refining Company, which corporation is operated primarily for the purpose of refining raw sugars. If the company collects tolls for the use of its wharves, it will thereby bring itself within the class of wharfingers who are public utilities, under the provisions of the Public Utilities Act. In such event, the statute would seem to be clearly constitutional as applicable to such a company. On the other hand, if the company collects no tolls and in no way engages in a public utility business, but uses the wharves and warehouses solely for its own purposes in connection with its refining of raw sugars, there may be some question as to whether the statute is constitutional, in so far as it applies to such a company. This Commission, however, must assume that the statutes of the legislature are constitutional, and must proceed to exercise the powers which the legislature directs it to exercise. If any statute affecting the powers and duties of this Commission is to be declared unconstitutional in any respect, the declaration must be made by the courts and not by this Commission.

The applicant in this proceeding has requested this Commission's approval to the grant of the wharf franchise so that there may be no question as to any flaw in its title.

Applicant is a California corporation, engaged principally in the refining of raw sugars at the town of Crockett, on the straits of Carquinez, in Contra Costa County. It is the owner and has heretofore enjoyed the use of two certain wharf franchises, one of them granted by the board of supervisors on February 5, 1883, to A. D. Starr for a term of twenty years, and the other granted by the board of supervisors on May 3, 1887, to Starr & Company for a like term. On December 1, 1902, each of these franchises was renewed and extended by the board of supervisors of Contra Costa County to the California and Hawaiian Sugar Refining Company for a period of twenty years.

On August 4, 1913, petitioner applied to the board of supervisors of Contra Costa County, under the act approved March 22, 1905, commonly known as the Broughton Act, and the amendment thereof, approved March 3, 1909, for a new wharf franchise for the period of twenty years, which franchise is the subject of this application. Applicant asks for authority to maintain and operate wharves on certain lands situate on the southerly shore of the straits of Carquinez, in Judicial District No. 12, Supervisors' District No. 2, Road District No. 1, Contra Costa County, State of California, being a portion of the southwest quarter of section 32, township 3 north, range 3 west, M. D. B.

and M. The land included in this application for a wharf franchise covers a portion of the lands described in the two existing franchises and also certain additional land. The land sought to be used under the new wharf franchise is alleged to be public tide lands belonging to the State of California. Applicant has recently constructed a wharf or pier resting upon concrete piles or piers and has built thereon a concrete and steel warehouse. Applicant feels that in order to protect this investment, it should have a new franchise running for twenty years. Applicant also intends hereafter from time to time to spend additional substantial amounts in the construction of wharves and buildings on the property covered by the proposed franchise.

On September 15, 1913, by said Ordinance No. 131, the board of supervisors of Contra Costa County awarded to applicant the wharf franchise as applied for upon the payment by the applicant of the sum of \$250.00. The franchise contains the usual provisions of the Broughton Act to the effect that the grantee of the franchise must, during the life of the franchise, pay to Contra Costa County 2 per cent of the gross annual receipts of the tolls arising from the use, operation and possession of the franchise, provided, however, that no percentage shall be paid for the first five years succeeding the date and taking effect of the franchise. Just how this percentage is to be computed is not clear, but it is not necessary to pass upon this question at this time.

Section 5 of the ordinance provides that it shall take effect thirty days after its passage and after publication thereof at least one week within fifteen days from and after the date of its passage, and also only upon the approval of the Railroad Commission. The action on the part of the board of supervisors of Contra Costa County shows that they are satisfied with the application. I see no reason for reaching a contrary conclusion and recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

California and Hawaiian Sugar Refining Company having applied to this Commission, under the provisions of chapter 557 of the Laws of 1913, for its approval of the sale and award by the board of supervisors of Contra Costa County, State of California, of a wharf franchise in said county of Contra Costa to said California and Hawaiian Sugar Refining Company, and for the approval of Ordinance No. 131 of said board of supervisors granting said franchise, and a public hearing having been held upon said application, and no good reason appearing to the contrary,

It is hereby ordered that the sale and award of said wharf franchise by said board of supervisors to said California and Hawaiian Sugar Refining Company be and the same is hereby approved and that

Ordinance No. 131 of said board of supervisors granting to said California and Hawaiian Sugar Refining Company said franchise be and the same is hereby approved; and

It is further ordered that the applicant file with the clerk of the board of supervisors of said Contra Costa County a certified copy of this order.

This order shall go into effect and full force immediately.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of September, 1913.

DECISION No. 966.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AUTHORITY TO ISSUE BONDS AND TO PURCHASE THE PROPERTIES OF MIDLAND COUNTIES GAS AND ELECTRIC COMPANY, PASO ROBLES LIGHT AND WATER COMPANY AND RUSSEL-ROBISON WATER AND ELECTRIC COMPANY; AND OF MIDLAND COUNTIES GAS AND ELECTRIC COMPANY, PASO ROBLES LIGHT AND WATER COMPANY, AND RUSSEL-ROBISON WATER AND ELECTRIC COMPANY TO SELL THE SAME.

Application No 742.

Decided September 21, 1913.

Held, That applicant be authorized to purchase 700 shares of stock of the Midland Counties Gas and Electric Company, to purchase the franchises and property of the Midland Counties Gas and Electric Company, the Paso Robles Light and Water Company, and the Russel-Robison Water and Electric Company.

Held, That applicant be permitted to issue \$1,159,000.00 face value of 6 per cent forty-year bonds; \$275,000.00 to be used to retire bonds of a like amount of the Midland Counties Gas and Electric Company; \$546,000.00 to retire a like amount of bonds of the Coalinga Water and Electric Company; \$338,000.00 to be issued only under supplemental order, said amount to be used to refund notes given in payment for additions and betterments to plant.

W. A. Sutherland, for Applicants.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application which contemplates the consolidation of water, gas and electric properties in Fresno, Monterey, San Luis Obispo and

Santa Barbara counties. The same matters were involved in Application No. 515, but that application has now been dismissed at the request of the parties interested, and the present application is made in lieu thereof.

In Application No. 515 it was proposed that a new corporation be formed, to be known as Midland Counties Public Service Company, and that this corporation absorb Coalinga Water and Electric Company, Midland Counties Gas and Electric Company, Paso Robles Light and Water Company and Russel-Robison Water and Electric Company. Subsequent to the hearing on that application, however, it was determined to accomplish the same results by changing the name of Coalinga Water and Electric Company to Midland Counties Public Service Corporation. This has since been done.

Midland Counties Public Service Corporation, as successor to Coalinga Water and Electric Company, serves a section of territory extending from Coalinga, in Fresno County, into a portion of Monterey County and Northern San Luis Obispo County. Its chief business is the sale and distribution of electricity. It owns 2,800 shares of the 3,505 shares of issued stock of Midland Counties Gas and Electric Company, which serves San Luis Obispo with gas and electricity, and a portion of northern Santa Barbara County in and about Santa Maria, with electricity. Midland Counties Public Service Corporation also controls, by stock ownership, the Paso Robles Light and Water Company, which serves Paso Robles and San Miguel and vicinity, in San Luis Obispo County, and by similar stock ownership it controls the Russel-Robison Water and Electric Company, which serves Arroyo Grande, in San Luis Obispo County.

It is the purpose of Midland Counties Public Service Corporation to acquire 700 shares of the capital stock of Midland Counties Gas and Electric Company, which will then give it possession of all the shares of stock except those necessary to qualify directors.

In order to unify these utilities, the application proposes further that Midland Counties Public Service Corporation shall take over the properties and franchises of these three corporations. In addition, Midland Counties Public Service Corporation applies for authority to mortgage these combined properties for an authorized bond issue of \$3,000,000.00 and to issue thereunder a total of \$1,159,000.00 of bonds, of which \$821,000.00 shall be for refunding underlying bonds and \$338,000.00 for additions and betterments.

This application may, therefore, be summarized as follows:

(1) Application of Midland Counties Public Service Corporation to purchase 700 shares of the capital stock of Midland Counties Gas and Electric Company.

(2) Application of Midland Counties Public Service Corporation to purchase the property and franchises of Midland Counties Gas and Electric Company.

(3) Application of Midland Counties Public Service Corporation to purchase the property and franchises of the Paso Robles Light and Water Company.

(4) Application of Midland Counties Public Service Corporation to purchase the properties and franchises of Russel-Robison Water and Electric Company.

(5) Application of Midland Counties Public Service Corporation to mortgage its properties to Security Trust and Savings Bank of Los Angeles, as trustee, for an authorized issue of \$3,000,000.00 of bonds.

(6) Application of Midland Counties Public Service Corporation to issue \$1,159,000.00 of its first and refunding forty-year 6 per cent bonds for the following purposes: to refund bonds of Coalinga Water and Electric Company, \$546,000.00; to refund bonds of Midland Counties Gas and Electric Company, \$275,000.00; for additions and betterments, \$338,000.00. Of these bonds, it proposes to issue at this time \$821,000.00 for refunding purposes and \$79,000.00 for additions and betterments.

(7) Application of Midland Counties Gas and Electric Company to sell its properties and franchises to Midland Counties Public Service Corporation.

(8) Application of Paso Robles Light and Water Company to sell its property and franchises to Midland Counties Public Service Corporation.

(9) Application of Russel-Robison Water and Electric Company to sell its properties and franchises to Midland Counties Public Service Corporation.

Midland Counties Public Service Corporation intends, by the consolidation of these related public utility enterprises which it now controls, to systematize the distribution of electricity in a large agricultural section. It is the intention of applicant to develop the pump irrigation business particularly, and it is urged that the business can be carried on to greater advantage to the corporation and to the public by a consolidation of these companies which are now controlled by the same parties.

The testimony shows that through the consolidation the rates are to be reduced and that service will be bettered. I believe the consolidation of these properties will be of decided advantage to the public and I shall recommend, therefore, that such consolidation be authorized by this Commission.

It appears that the 700 shares of capital stock of Midland Counties Gas and Electric Company, which Midland Counties Public Service

Corporation desires to purchase, are now held by A. C. Balch, as trustee. It was the intention originally to transfer all the stock to Midland Counties Public Service Corporation and it has merely been held by Mr. Balch as trustee.

I recommend, therefore, that Midland Counties Public Service Corporation be given authority to purchase 700 shares of stock of Midland Counties Gas and Electric Company for \$35,000.00, as requested.

In connection with its application to issue bonds, Midland Counties Public Service Corporation has submitted an estimate of the value of its properties as of March 31, 1913, in the sum of \$1,027,139.00.

While I make no findings as to the value of applicant's property, I recommend that it be given authority for the present to assume the bonded indebtedness of the Coalinga Water and Electric Company in the sum of \$546,000.00 and of Midland Counties Gas and Electric Company in the sum of \$275,000.00, or a total of \$821,000.00.

It is the purpose of Midland Counties Public Service Corporation to refund at the present time the bonds of Coalinga Water and Electric Company and to exchange for the most part on a basis of one bond of Midland Counties Public Service Corporation for one bond of Coalinga Water and Electric Company. In some instances, applicant expects to pay a bonus of \$20.00 per bond, but this will come from surplus or from the stockholders.

Applicant proposes to place \$275,000.00 of Midland Counties Public Service Corporation bonds with its trustees to refund the bonds of Midland Counties Gas and Electric Company. Such exchange can only be made if the present holders of the bonds of Midland Counties Gas and Electric Company so desire, for the issue does not mature until 1932 and Midland Counties Public Service Corporation does not suggest that the bonds be called.

I recommend that this refunding be authorized, as requested, and that the company be given one year to execute this refunding. If it should happen, at the end of the year, that this refunding has not been completed, and it is desired that the authority for such refunding be continued, application may be again made to the Commission.

I am not willing, however, to recommend that this refunding be now authorized to stand until 1932. The same purpose can be accomplished by annual authorizations, if such be necessary.

Applicant asks authority to mortgage its property to Security Trust and Savings Bank of Los Angeles, as trustee, under the terms and conditions set forth in a mortgage and deed of trust, a copy of which has been filed with this Commission in the application herein and marked Exhibit "B." Under the terms of this mortgage, applicant may issue bonds to the total amount of \$3,000,000.00. Of this amount, \$821,000.00

of bonds are reserved for refunding, as above indicated. The balance of the first \$1,500,000.00 may be issued for the full cost of additions and betterments when net earnings shall be one and one half times the interest on the outstanding bonds, plus one and one half times the interest on the bonds proposed to be issued. The remaining bonds, in the sum of \$1,500,000.00, may be issued for only 85 per cent of the cost of additions and betterments and then only when the net earnings for one year shall have been one and three fourths times the interest on the bonds outstanding plus one and three fourths times the interest on the bonds proposed to be issued.

Applicant has made additions and betterments against which it proposes to issue \$338,000.00 in bonds, but at this time its earnings would entitle it to an issue of \$79,000.00 in bonds against these additions and betterments. It asks that the full amount of \$338,000.00 be authorized and that it be given permission to issue at this time \$79,000.00 with authority to issue the balance from time to time.

Applicant submits a list of additions and betterments consisting of extensions and betterments costing \$413,673.74. These additions and betterments are set forth in Exhibit "C" in connection with the application herein and consist of substations, transmission lines, etc., over the territory in which applicant operates.

I find that these additions and betterments were necessary to applicant's business and made at reasonable cost.

Applicant submits a consolidated earning statement covering all its properties for the year ending June 30, 1913, as follows:

| | |
|---|--------------|
| Gross earnings | \$196,517 91 |
| Miscellaneous income | 4,423 71 |
| | <hr/> |
| | \$200,941 62 |
| <i>Deduct expenses:</i> | |
| Operating and maintenance | \$78,273 34 |
| Administration and general | 32,819 61 |
| Taxes and insurance | 10,389 60 |
| | <hr/> |
| | \$121,482 55 |
| Profit before providing for interest and depreciation | 79,459 07 |
| <i>Deduct:</i> | |
| Interest: | |
| On bonds | \$50,897 46 |
| Miscellaneous | 893 61 |
| | <hr/> |
| | \$51,791 07 |
| <i>Less:</i> | |
| Proportion charged to capital accounts | 3,753 22 |
| | <hr/> |
| | \$48,037 85 |
| Proportion of bond discount and expense written off | 1,782 17 |
| | <hr/> |
| | \$49,820 02 |
| Net profit before charging depreciation | \$29,639 05 |

I find that applicant has made additions and betterments which, under the terms of its mortgage, would entitle it to issue at such times as its earnings as provided in said mortgage justify, bonds to the amount of \$338,000.00. I find, however, applicant will pay \$35,000.00 for the 700 shares of Midland Counties Gas and Electric Company, and I am not willing at this time to recommend that bonds be issued for this purpose. It is clear, however, that applicant will continue to carry part of its floating indebtedness and it stated that its principal stockholders would advance money for this purpose.

I recommend that applicant be given authority, as requested, to issue bonds to the amount of \$1,159,000.00, provided, however, that applicant be permitted to issue at this time \$821,000.00 in bonds for refunding purposes and that it be authorized to issue the remaining \$338,000.00 in bonds only upon supplemental application and supplemental orders from this Commission.

I recommend this plan of procedure so that applicant may, in the mean while, file with the Commission a detailed appraisal of its properties. A check of this appraisal will be necessary to guide the Commission in issuing its supplemental orders on the matter here under consideration.

I submit the following form of order:

ORDER.

Midland Counties Public Service Corporation having made application to this Commission for authority as follows:

(1) To purchase 700 shares of the common capital stock of Midland Counties Gas and Electric Company;

(2) To purchase the properties and franchises of Midland Counties Gas and Electric Company, which properties are enumerated in applicant's mortgage and deed of trust to Security Trust and Savings Bank of Los Angeles, as trustee, on file with this Commission and marked Exhibit "B";

(3) To purchase the franchises and properties of Paso Robles Light and Water Company, which properties are enumerated in applicant's mortgage and deed of trust to Security Trust and Savings Bank of Los Angeles, as trustee, on file with this Commission and marked Exhibit "B";

(4) To purchase the properties of Russel-Robison Water and Electric Company, which properties are enumerated in applicant's mortgage and deed of trust to Security Trust and Savings Bank of Los Angeles, as trustee, on file with this Commission and marked Exhibit "B";

(5) To mortgage its properties to Security Trust and Savings Bank of Los Angeles to secure an issue of \$3,000,000.00 of first and refunding 6 per cent forty-year bonds, such mortgage bearing date of October 1, 1913, and being substantially in the form of a copy of said mortgage

on file with this Commission in connection with the application herein and marked Exhibit "B";

(6) To issue \$1,159,000.00 of said first and refunding 6 per cent forty-year bonds, dated October 1, 1913, and maturing October 1, 1953, and to be used as follows: bonds Nos. 1 to 275, inclusive, to be reserved against the retirement of bonds of the Midland Counties Gas and Electric Company; bonds Nos. 276 to 821, both inclusive, to be reserved against the retirement of bonds of the Coalinga Water and Electric Company; and bonds Nos. 822 to 1,159, both inclusive, for additions and betterments to applicant's property;

And Midland Counties Gas and Electric Company, Paso Robles Light and Water Company and Russel-Robison Water and Electric Company having made application to this Commission for authority to sell their franchises and properties to Midland Counties Public Service Corporation;

And a hearing having been held, and it appearing that public convenience and necessity will be served by the consolidation of these properties, as applied for, and that public convenience will also be served by authorizing Midland Counties Public Service Corporation to mortgage its property; and it appearing further, that the property acquired and to be acquired by Midland Counties Public Service Corporation, through the issue of bonds, is reasonably required in the conduct of its business; and it appearing also that the purposes for which said bonds are to be issued are not, in whole or in part, reasonably chargeable to operating expenses or to income,

It is hereby ordered that Midland Counties Public Service Corporation be given authority, and it is hereby given authority, to purchase 700 shares of the common capital stock of the Midland Counties Gas and Electric Company; to purchase the properties and franchises of Midland Counties Gas and Electric Company; to purchase the franchises and properties of Paso Robles Light and Water Company; and to purchase the properties of Russel-Robison Water and Electric Company, said properties being enumerated in applicant's mortgage to Security Trust and Savings Bank of Los Angeles filed in connection with this application and marked Exhibit "B"; and

It is hereby ordered that Midland Counties Gas and Electric Company, Paso Robles Light and Water Company and Russel-Robison Water and Electric Company be given authority, and they are hereby given authority, to sell said properties.

It is further ordered that Midland Counties Public Service Corporation be given authority, and it is hereby given authority, to execute a mortgage of its properties to Security Trust and Savings Bank of Los Angeles, as trustee, substantially in the form of a copy of said mortgage filed in connection with the application herein and marked

Exhibit "B," to which reference is hereby made, to secure an issue of \$3,000,000.00 of first and refunding 6 per cent forty-year bonds, said mortgage bearing date of October 1, 1913.

And it is hereby ordered that Midland Counties Public Service Corporation be given authority, and it is hereby given authority, to issue, under said mortgage and deed of trust, \$1,159,000.00 of said first and refunding 6 per cent forty-year bonds bearing date of October 1, 1913, and maturing October 1, 1953.

The authority hereby given to issue said bonds is given on the following conditions and not otherwise:

(1) Midland Counties Public Service Corporation may issue at this time its bonds as follows:

(a) \$275,000.00 of its bonds,—being bonds numbered 1 to 275, inclusive—to be used to retire a like amount of bonds of Midland Counties Gas and Electric Company.

(b) \$546,000.00 in bonds—being bonds numbered 276 to 821, both inclusive—to retire a like amount of bonds of Coalinga Water and Electric Company.

(c) Said bonds shall be retired on the basis of bond for bond of equal par value.

(2) Midland Counties Public Service Corporation is hereby given authority to issue its bonds in the amount of \$338,000.00 to pay such of its notes payable, listed with this Commission as Exhibit "E," or notes given in exchange therefor, when it shall be made to appear to the satisfaction of this Commission that said notes were given in payment for additions and betterments to applicant's property, as listed with this Commission in connection with the application herein and marked Exhibit "C"; said bonds to net applicant not less than 92 per cent of face value plus accrued interest.

(3) Midland Counties Public Service Corporation shall issue the remaining bonds herein authorized in the preceding paragraph to the amount of \$338,000.00 only after it shall have presented a supplemental application to this Commission and received a supplemental order from said Commission.

(4) The authority herein given to Midland Counties Public Service Corporation to issue bonds for refunding other bonds shall apply to such bonds as shall have been actually exchanged for bonds of Coalinga Water and Electric Company and for bonds of Midland Counties Gas and Electric Company on or before June 30, 1914.

(5) The authority herein given to Midland Counties Public Service Corporation to issue said \$338,000.00 of bonds shall apply to such bonds as shall have been issued on or before September 15, 1914.

(6) Midland Counties Public Service Corporation shall keep separate true and accurate accounts showing the receipt and application in detail

of the proceeds of the sale or other disposition of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales or exchange of said bonds during the preceding month, the terms and conditions of the sale or exchange, the moneys or bonds realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) This order shall not become effective until the fee required by section 57 of the Public Utilities Act has been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1913.

DECISION No. 967.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE COLLATERAL TRUST NOTES DESIGNATED AS "SIX PER CENT GOLD NOTES" IN THE SUM OF SEVEN MILLION DOLLARS; TO EXECUTE A TRUST AGREEMENT TO SECURE THE SAME; TO PLEDGE ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS TO THE PAR VALUE OF FIVE MILLION DOLLARS AS COLLATERAL SECURITY FOR SAID GOLD NOTES; AND TO DISCHARGE AND REFUND DEMAND NOTES IN THE SUM OF FOUR MILLION, FIVE HUNDRED THOUSAND DOLLARS.

Application No. 746.

Decided September 24, 1913.

Held, That applicant be permitted to issue its six per cent gold notes in the sum of \$7,000,000.00; \$4,500,000.00 of said notes to be used to refund demand notes of a like amount; the balance to be sold under a trust agreement, which applicant is herein authorized to execute, proceeds from the sale of said notes to be used in additions to plant and to refund treasury for money previously expended in the acquisition of property.

Held, That applicant be authorized to pledge \$5,000,000.00 face value of its general lien bonds and \$5,000,000.00 face value of its general and refunding mortgage bonds as security for said six per cent gold notes.

Wm. B. Bosley and C. P. Cullen, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by Pacific Gas and Electric Company, asking that this Commission issue an order as follows:

(1) Authorizing it to issue collateral trust notes, designated as six per cent gold notes, to the amount of \$7,000,000.00, and to use \$4,500,000.00 of the amount thereof for discharging and refunding its demand promissory notes of an equal aggregate face amount, and to sell the balance of its said six per cent gold notes under the terms of a trust agreement between Pacific Gas and Electric Company and F. N. B. Close, of New Jersey, as trustee, a copy of which has been filed with this Commission in connection with the application herein and marked Exhibit "D."

(2) Authorizing it to execute to F. N. B. Close, of New Jersey, as trustee, said trust agreement.

(3) Authorizing it to pledge, as provided in said trust agreement, its six per cent convertible general lien bonds to the par value of \$5,000,000.00 as collateral security for said six per cent gold notes, being the same bonds now pledged as security for said demand notes.

(4) Authorizing it to pledge, as provided in said trust agreement, its general and refunding mortgage gold bonds of the par value of \$5,000,000.00 as collateral security for said six per cent gold notes, being the bonds authorized to be pledged by order of the Railroad Commission upon Application No. 676, of which \$3,200,000.00 are bonds now pledged or about to be pledged as security for said demand notes.

(5) Authorizing it to use the proceeds from the sale of said six per cent gold notes to the aggregate face amount of \$2,500,000.00 for the acquisition of property and for the construction, completion, extension and improvement of its facilities, as specified in a statement marked Exhibit "B" attached to Application No. 552; to discharge and refund obligations incurred subsequent to May 31, 1913, for the acquisition of any of said property; and to reimburse applicant's treasury for money expended from income for the acquisition of property to the extent heretofore authorized under orders of this Commission heretofore made on Applications Nos. 552, 603 and 676.

The matters herein presented have been placed before this Commission fully in connection with Applications Nos. 552, 603 and 676.

It is proposed now to complete the financing submitted and approved by the Commission in connection with the previous applications mentioned.

The proceeds to be derived from the sale of the six per cent gold notes are to be used as directed by this Commission in its orders upon Applications Nos. 552, 603 and 676. These purposes involve a program

of extensive construction work in connection with the Bear River and South Yuba development, transmission and service extensions and certain moneys for the reimbursement of applicant's treasury.

In its decision upon Application No. 676, this Commission authorized Pacific Gas and Electric Company to issue its demand notes in the sum of \$4,500,000.00 for these purposes. Notes in the sum of \$4,000,000.00 have now been issued under this authorization. Another note in the sum of \$500,000.00 will be issued. It is now proposed by the applicant herein to refund this indebtedness in the sum of \$4,500,000.00 by issuing its gold notes.

Applicant asked for authority, further, to issue, if such be necessary, an additional \$2,500,000.00 of its six per cent gold notes, making a total of \$7,000,000.00 of said six per cent gold notes.

Applicant presented testimony to the effect that the balance of \$2,500,000.00 of its six per cent gold notes would not be issued if, in the meanwhile, applicant disposed of bonds to take care of this part of its proposed financing.

Applicant's proposed issue of \$7,000,000.00 of six per cent gold notes will be secured by a trust agreement bearing date of July 1, 1913, executed between Pacific Gas and Electric Company and F. N. B. Close, of New Jersey, as trustee. The six per cent gold notes issued under this agreement mature on June 25, 1914.

The matter herein presented to the Commission involves the completion of the financing which the Commission has in its previous orders, above referred to, sanctioned and authorized.

I, therefore, recommend that the application be granted, and submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for an order—

(1) Authorizing it to issue collateral trust notes, designated as six per cent gold notes, to the amount of \$7,000,000.00, and to use \$4,500,000.00 of the amount thereof for discharging and refunding its demand promissory notes of an equal aggregate face amount, and to sell the balance of its said six per cent gold notes under the terms of a trust agreement between Pacific Gas and Electric Company and F. N. B. Close, of New Jersey, as trustee, a copy of which has been filed with this Commission in connection with the application herein and marked Exhibit "D";

(2) Authorizing it to execute to F. N. B. Close, of New Jersey, as trustee, said trust agreement;

(3) Authorizing it to pledge, as provided in said trust agreement, its six per cent convertible general lien bonds to the par value of

\$5,000,000.00 as collateral security for said six per cent gold notes, being the same bonds now pledged as security for said demand notes;

(4) Authorizing it to pledge, as provided in said trust agreement, its general and refunding mortgage gold bonds of the par value of \$5,000,000.00 as collateral security for said six per cent gold notes, being the bonds authorized to be pledged by order of the Railroad Commission upon Application No. 676, of which \$3,200,000.00 are bonds now pledged or about to be pledged as security for said demand notes;

(5) Authorizing it to use the proceeds from the sale of said six per cent gold notes to the aggregate face amount of \$2,500,000.00 for the acquisition of property and for the construction, completion, extension and improvement of its facilities, as specified in a statement marked Exhibit "B" attached to Application No. 552; to discharge and refund obligations incurred subsequent to May 31, 1913, for the acquisition of any of said property; and to reimburse applicant's treasury for money expended from income for the acquisition of property to the extent heretofore authorized under orders of this Commission heretofore made on Applications Nos. 552, 603 and 676;

And this Commission having found, in previous orders upon Applications Nos. 552, 603 and 676 by said Pacific Gas and Electric Company, that the purposes for which it is now proposed to use the proceeds from the sale of said six per cent gold notes are proper under the provisions of the Public Utilities Act and not, in whole or in part, chargeable to operating expenses or to income.

It is hereby ordered that Pacific Gas and Electric Company be given authority, and it is hereby given authority, as follows:

(1) To issue collateral trust notes, designated as six per cent gold notes, to the amount of \$7,000,000.00, and to use \$4,500,000.00 of the amount thereof for discharging and refunding its demand promissory notes of an equal aggregate face amount, and to sell the balance of its said six per cent gold notes under the terms of a trust agreement between Pacific Gas and Electric Company and F. N. B. Close, of New Jersey, as trustee, a copy of which has been filed with this Commission in connection with the application herein and marked Exhibit "D";

(2) To execute to F. N. B. Close, of New Jersey, as trustee, said trust agreement;

(3) To pledge, as provided in said trust agreement, its six per cent convertible general lien bonds to the par value of \$5,000,000.00 as collateral security for said six per cent gold notes, being the same bonds now pledged as security for said demand notes;

(4) To pledge, as provided in said trust agreement, its general and refunding mortgage gold bonds of the par value of \$5,000,000.00 as

collateral security for said six per cent gold notes, being the bonds authorized to be pledged by order of the Railroad Commission upon Application No. 676, of which \$3,200,000.00 are bonds now pledged or about to be pledged as security for said demand notes;

(5) To use the proceeds from the sale of said six per cent gold notes to the aggregate face amount of \$2,500,000.00 for the acquisition of property and for the construction, completion, extension and improvement of its facilities, as specified in a statement marked Exhibit "B" attached to Application No. 552; to discharge and refund obligations incurred subsequent to May 31, 1913, for the acquisition of any of said property; and to reimburse applicant's treasury for money expended from income for the acquisition of property to the extent heretofore authorized under orders of this Commission heretofore made on Applications Nos. 552, 603 and 676.

Pacific Gas and Electric Company is hereby given authority to issue said six per cent gold notes and said \$5,000,000.00 general lien six per cent bonds and said \$5,000,000.00 general and refunding five per cent bonds upon the following conditions and not otherwise:

(1) The proceeds from the sale of said six per cent gold notes shall be used for the following purposes and not otherwise—

(a) For the discharge of the following demand notes:

| | |
|---|-----------------------|
| Bankers Trust Company, August 20, 1913----- | \$2,000,000 00 |
| Bankers Trust Company, August 20, 1913----- | 1,250,000 00 |
| Bankers Trust Company, Sept. 5, 1913----- | 750,000 00 |
| Bankers Trust Company (Note to be issued), Sept. 26, 1913 | 500,000 00 |
| Total ----- | <u>\$4,500,000 00</u> |

(b) The balance of said \$7,000,000.00 of gold notes shall be used only for purposes specified in this Commission's order upon Applications Nos. 552 and 603.

(2) The authority hereby given to Pacific Gas and Electric Company to issue said \$5,000,000.00 general lien six per cent bonds shall include only bonds numbered from 1 to 5,000, both inclusive.

(3) The authority hereby given to Pacific Gas and Electric Company to pledge said \$5,000,000.00 of five per cent general and refunding mortgage bonds shall apply solely to bonds numbered from M25431 to M30430, both inclusive.

(4) Pacific Gas and Electric Company shall file monthly reports with this Commission stating the amount of six per cent collateral trust notes which has been issued under the authorization herein given. Such reports shall be filed on or before the twenty-fifth day of each month covering such sale or sales of said gold notes during the month previous.

(5) Pacific Gas and Electric Company shall present to this Commission, not later than May 1, 1914, a financial plan under which it

shall arrange for the payment or refunding of the \$7,000,000.00 of six per cent gold notes herein authorized or such part thereof as may have been issued.

(6) Pacific Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds and notes hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such bonds and notes during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

(7) The authority herein given to Pacific Gas and Electric Company to issue said six per cent gold notes and to pledge \$5,000,000.00 of its general lien bonds and \$5,000,000.00 of its general and refunding bonds as collateral security therefor, and to execute said trust agreement with F. N. B. Close, of New Jersey, as trustee, shall apply to such gold notes and to such general lien six per cent bonds, and to such general and refunding bonds as shall have been issued or pledged on or before April 30, 1914.

(8) The payment of the fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1913.

Decision No. 968, grade crossing; not printed. See end of volume.

DECISION No. 969.

LONG BEACH CHAMBER OF COMMERCE

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 281.

Decided September 25, 1913.

Complainant alleges unjust rates and inadequate service on part of defendant within the city limits of Long Beach; also, that defendant refuses to issue transfers and to pave the streets adjacent to its tracks as required by said city.

Held, That the charter of the city of Long Beach invests the power of control over its utilities in the city itself; that the Commission has no jurisdiction therein. Complaint is therefore dismissed.

Louis N. Whcalton, for Complainant.

Frank Karr, D. C. Denio, and Allen Ashburn, Jr., for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is a complaint by the Long Beach Chamber of Commerce versus the Pacific Electric Railway Company, alleging that said company violates franchises under which it operates in the city of Long Beach, in the following particulars:

1. That it charges 10-cent fare for a continuous ride in the same general direction on its Huntington Beach line between Zaferia and Temple streets, and between other points, all in the city of Long Beach.

2. That it refuses to give transfers from certain of its lines operated in Long Beach to other of its lines in the same place.

3. That it refuses to pave or macadamize the space in the street over which it operates between its tracks and between the rails, and for a distance of two feet on each side thereof.

4 That defendant violates the Public Utilities Act in the following particulars:

a. That it charges more than 5 cents for a continuous ride in the same general direction within the corporate limits of the city of Long Beach.

b. That it refuses transfers on portions of its lines in Long Beach not reached by the originating car.

c. That it charges greater compensation for a shorter than a longer distance on the same line or route in the same direction.

d. That it fails to provide proper facilities, instrumentalities, equipment, etc. for the proper operation of its system in the city of Long Beach. Under this head it is prayed that defendant be compelled to lay grooved girder rails in place of "T" rails.

It will first be necessary to determine whether this Commission has jurisdiction over the matters complained of.

The Pacific Electric Railway Company operates an interurban service between the city of Los Angeles and other points through and into the city of Long Beach. This company also operates a distinct local street car system, covering a large portion of said city of Long Beach.

The matter first to be considered is whether this Commission has any jurisdiction over matters of service, facilities, equipment, trackage, and fares of the purely local street car system in said city.

The constitution provides, section 23 of article XII, for the regulation by the Railroad Commission of interurban and street railroads

as shall be provided by the legislature, and the legislature has provided in the Public Utilities Act for complete regulation of interurban and street railroads by the Railroad Commission as to service, fares, facilities, etc., but there is a very important proviso in said section 23 of article XII of the constitution, to the effect that the cities shall retain such control as they had over public utilities unless by a certain procedure they surrender such control to the Railroad Commission. The period for determining what control was vested in the cities has been fixed as of March 23, 1912.

Subsequent to the hearing in this matter, the city of Long Beach adopted a charter amendment by which it was attempted to take from the city of Long Beach and confer upon this Commission jurisdiction over the matters herein complained of, but on the twenty-ninth day of March, 1913, this Commission made and entered its order in this case, wherein it was held that the method provided for divesting a city of its powers of control over public utilities in the so-called "Hewitt Act" was exclusive, and that such powers could not be divested by charter amendment. Therefore, we must look to the charter of the city of Long Beach as of March 23, 1912, and the constitution, to determine what powers over public utilities are vested in the said city.

The charter of the city of Long Beach provided on March 23, 1912, under the head "General Powers," subdivision 17 of section 3:

"To require every railroad corporation or company to pave and keep in repair between the tracks and for two feet on each side of the tracks, all streets occupied or used by such corporation or company."

Subdivision 18:

"To fix and determine annually the rates of compensation to be collected by any person, firm, company or corporation in the city for the use of water, gas, electricity or any public service supplied to the city or the inhabitants thereof; also to fix and regulate annually the tolls and wharfage to be charged for the use of any wharf within the city limits, and to prescribe penalties for the violation of any and all ordinances passed in reference to matters contained in this subdivision."

Subdivision 10 of article VI gives the council power "to regulate street railroads, their tracks and cars"

It is doubtful whether this Commission has been given power to regulate paving in any portion of the State, but the matter is free from doubt here because under section 17 of the charter the power is vested in the city to compel the railroad company to pave between its tracks and for a distance of two feet of each side thereof. Therefore, under the constitutional proviso above mentioned, this Commission has no jurisdiction, as the city has not by the means provided

therefor surrendered such jurisdiction to it. The same may be said of the matter of tracks and rails, as under subdivision 10 of article IV the city council in terms is given power to regulate tracks, and this surely would include rails.

It appears equally clear that under subdivision 18 the city has the power to regulate the rates for any public service supplied to the city or the inhabitants thereof, and the transportation of passengers on street railroads within the city is undoubtedly a public service furnished the inhabitants of the city.

The allegation that the railway company is violating its franchises in the particulars above specified, does not give this Commission jurisdiction, because the city of Long Beach may, by way of forfeiture of the franchises, or other appropriate procedure, enforce the terms thereof.

Therefore, the city, and not this Commission, has jurisdiction over the fares charged on the city street car system.

Complaint is made of a rate of more than 5 cents, charged on a line which is part of the street car system, but cars operated on which, after running over the streets of the city for a considerable distance, turn on to one of its interurban lines and run thence for a short distance in the city, then through territory outside of the city and into the city again to a terminal in the city. This rate, in my judgment, is within the jurisdiction of the city. Both terminals of this line are in the city. It operates largely over city streets and the fact that to provide service from one part of the city to the other, it traverses for a comparatively short distance, territory outside of the city, is not sufficient to rob it of its character as a street car line.

This Commission has power to fix the interurban rates on the interurban service, but this would not carry with it the power to compel a transfer given an interurban passenger to be accepted by the street car service, because, manifestly, to compel the street car service to accept a transfer, in effect, fixes a rate on the city system for the transportation of that passenger, and this would be an invasion by the Commission of the city's jurisdiction.

The conclusion is inevitable, therefore, that as to rates, including transfers for transportation on the local service, the city of Long Beach, and not this Commission, has control and jurisdiction, and the allegation in this complaint that the city authorities have failed or refused to exercise such control in no wise divests them of power, nor gives such control to this Commission.

Therefore, I hold that the Railroad Commission has no jurisdiction over the matters complained of, and I recommend that an order be made dismissing said complaint.

ORDER.

Long Beach Chamber of Commerce having filed a complaint with this Commission against the Pacific Electric Railway Company, and a hearing having been had thereon, and it appearing to the Commission that the matters complained of are not within the jurisdiction of this Commission,

It is hereby ordered that the complaint of the Long Beach Chamber of Commerce versus the Pacific Electric Railway Company be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of September, 1913.

DECISION No. 970.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS OF THE FACE VALUE OF SIX HUNDRED AND THIRTY-NINE THOUSAND DOLLARS.

Application No. 590.

Decided September 25, 1913.

Third supplemental order authorizing applicant to issue \$25,000.00 face value of bonds, being a portion of its bonds heretofore authorized, proceeds to be used to refund indebtedness incurred for capital expenditures made during the month of March, 1913.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL OPINION.

THELEN, *Commissioner*.

This is a supplemental application for authority to issue bonds of the face value of \$25,000.00.

On June 30, 1913, this Commission rendered its opinion and order in the above entitled proceeding, authorizing applicant to issue certain bonds, including bonds of the face value of \$459,000.00 on expenditures to be incurred during the year 1913, subsequent to April 30, 1913. On August 7, 1913, this Commission rendered its supplemental opinion

and order, authorizing the issue of \$102,000.00, face value, of said bonds on capital expenditures made during May and June, 1913. On August 22, 1913, this Commission rendered its second supplemental opinion and order, authorizing the issuance of \$33,000.00 face value of said bonds, on capital expenditures incurred during the month of July, 1913.

The present supplemental application is filed for the purpose of securing this Commission's authorization for the issue of an additional \$25,000.00, face value, of said bonds, for capital expenditures incurred during the month of August, 1913.

A summary of the estimated expenditures during the year 1913 subsequent to July 31, 1913, of the actual expenditures incurred during August, 1913, and of the balance to be expended in 1913 is attached to the application and reads as follows:

Summary.

| | Balance to be expended as of July 31, 1913 | Expenditures in August, 1913 | Balance to be expended |
|--|--|---------------------------------|---------------------------|
| 1. Steam power plant equipment..... | \$57,669 54 | \$5,008 21 | \$52,661 33 |
| 2. Electric distribution system..... | 90,712 86 | 15,303 57 | 75,409 29 |
| 3. Gas plant buildings and general structures | 3,263 22 | 976 20 | 2,287 02 |
| 4. Gas generators | 17,175 07 | 2,669 60 | 14,505 47 |
| 5. Purification appliances | 12,439 30 | 179 30 | 12,260 00 |
| 6. Water gas sets and accessories..... | 7,000 00 | ----- | 7,000 00 |
| 7. Accessory equipment at works..... | 18,556 82 | 2,230 29 | 16,326 53 |
| 8. Gas distribution | 150,170 55 | 116 16 | 150,054 39 |
| 9. Gas services | 44,545 26 | 4,071 63 | 40,473 63 |
| 10. Gas meters | 4,627 67 | 1,919 19 | 2,708 48 |
| 11. Miscellaneous distribution equip- ment | 9,629 45 | 78 03 | 9,551 42 |
| 12. General structures | 537 17 | 91 | 536 26 |
| 13. General shop equipment..... | 3,707 62 | 130 64 | 3,576 98 |
| 14. Contingencies | 3,694 46 | 649 20 | 3,045 26 |
| | \$423,728 99 | \$33,332 93 | \$390,396 06 |

Under the provisions of applicant's trust deed or mortgage, it is entitled to receive from the trustee, bonds of the face value of 75 per cent of proper capital expenditures. As far as this Commission is concerned, authority should be given to issue bonds of the face value of \$25,000.00 on the expenditures incurred during the month of August, 1913.

I find that the purposes for which expenditures were incurred during August, 1913, come within the general purposes specified in this Commission's opinion and order dated June 19, 1913. Applicant alleges that it expects to be able to sell its bonds for not less than 85 per cent of their face value.

I recommend that this supplemental application be granted and submit herewith the following form of third supplemental order:

THIRD SUPPLEMENTAL ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for the consent of the Commission to the issuance by said company of bonds of the face value of twenty-five thousand dollars (\$25,000), said bonds to be included within the general authorization heretofore given by this Commission's order in the above entitled proceeding, dated June 30, 1913, said bonds to be payable on the first day of March, 1939, and to bear interest at the rate of five (5) per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all the property of the company; and the Commission finding that the moneys to be procured by the issue of said bonds are necessary to and reasonably required by said company for the discharge and refunding of obligations heretofore incurred for proper capital expenditures, and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego Consolidated Gas and Electric Company of twenty-five thousand dollars (\$25,000), face value, of bonds of said company, bearing numbers 3944 to 3968, inclusive, maturing the first day of March, 1939, redeemable on March 1, 1914, or on any interest date thereafter, at par, accrued interest and a premium of five (5%) per cent on the principal thereof, and to bear interest at five (5%) per cent per annum, payable semiannually, under and in pursuance of the terms of the deed of trust or mortgage heretofore and on the first day of March, 1909, made and executed by said San Diego Consolidated Gas and Electric Company to Harris Trust and Savings Bank and Los Angeles Trust Company, now known as the Los Angeles Trust and Savings Bank, as trustees, upon the conditions following and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said bonds hereby authorized so as to net said company not less than eighty-five (85%) per cent of the par value of the principal thereof, besides interest accrued thereon.

2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds only for the purpose of discharging and refunding indebtedness incurred for capital expenditures made during the month of August, 1913, as those expenditures are set out in the opinion which precedes this order.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized

to be issued, and on or before the twenty-fifth day of each month the Company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. San Diego Consolidated Gas and Electric Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustees under its said trust deed, on which statements or certificates it expects to receive from the trustees the bonds hereby authorized to be issued.

5. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the 31st day of October, 1914.

The foregoing third supplemental opinion and order are hereby approved and ordered filed as the third supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of September, 1913.

DECISION No. 971.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO VALLEY ELECTRIC RAILROAD COMPANY FOR AN ORDER MODIFYING THE ORDER OF THE COMMISSION OF DATE AUGUST 13, 1912, WHEREIN THE SAID COMPANY WAS GRANTED PERMISSION TO SELL AND ISSUE THIRTY THOUSAND SHARES OF PREFERRED STOCK AND SEVEN THOUSAND FIVE HUNDRED SHARES OF COMMON STOCK.

Application No. 75.

Decided September 27, 1913.

Supplemental decision changing the terms of the original order relative to the conditions under which applicant may sell its stock.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION.

EDGERTON, *Commissioner*.

This is an application for a modification of the order made herein on the thirteenth day of August, 1912.

That order authorized the issuance and sale of preferred and common stock under conditions therein specified. Among said conditions was the following:

"Said preferred stock to be sold to net not less than 80 per cent of its par value to the company, provided that said stock may be sold to be paid for in installments, said installments to be not less than \$25.00 cash at the time of sale and the balance in equal installments in not more than three, six and nine months thereafter. Promissory notes bearing interest at six per cent per annum may be taken for the deferred payments, the stock not to be delivered until fully paid for. Provided, further, that if commissions be paid on the sale of said stock they shall not exceed an amount which will yield the aforesaid 80 per cent par value of said stock net to the company, and said commissions shall be paid in proportion as the cash for said stock is received by the company. No commission shall be allowed or paid on the stock already subscribed for, nor shall any commission be allowed or paid except for services actually rendered in the sale of stock."

Said order also provided:

"... Construction of the road shall not be entered upon nor liability created, nor money paid out except for commissions as aforesaid until there shall be in the hands of the company from the sale of stock \$750,000.00."

Said order also provided:

"The authority hereby given to issue such stock shall apply only to stock issued by said company on or before the 1st day of August, 1913."

We are now asked to modify said order so as to permit the payment of general expenses incurred by said company other than commissions paid on the stock, notwithstanding it has not in its hands \$750,000.00 from the sale of stock, and to permit the taking of promissory notes for the entire price of the stock sold, and to extend the life of said order from August 1, 1913, to August 1, 1914.

It appears that up to August 31, 1913, this company has received \$416,401.55 on account of the sale of its preferred stock, \$212,290.00 of which is cash and \$204,111.55 is represented by promissory notes, and that it has paid out in commissions on the sale of said capital stock, the sum of \$80,290.29, and for expenses in conducting the business of said corporation the sum of \$40,468.42.

It was testified to at the hearing that through the activities of the officers and agents of the company 90 per cent of the necessary right of way over which this line of railroad is to be constructed has been given free to the company.

Applicant has submitted a detailed statement of expenses already paid to August 31, 1913, and asks that it be authorized to expend for

general expenses to be incurred by the company hereafter an amount not to exceed \$3,000.00 per month.

An analysis of the expenses paid by this company other than commissions on the sale of stock shows that they consist generally of office rent and expenses, clerical help, stenographic services, advertising, expenses and salaries of right of way agents, expenses of its directors in traveling to and from meetings and the salaries of an auditor and an engineer.

I believe that it is necessary that this company maintain an office with the usual facilities and that it employ persons to obtain rights of way. (This, however, appears to be a diminishing necessity, as the testimony is that 90 per cent of the rights of way have already been obtained.) The need of an engineer at this time where no construction is under way is not so apparent. It appears that the money already paid out for these purposes has been honestly expended for the benefit of the company.

Sufficient showing has not been made, however, to justify a continuing expense of \$3,000.00 per month. I believe that with the exercise of economy that the expenses can be brought down to \$1,000.00 per month, and in view of the fact that this company is not building its line, but is selling stock for the purpose of building up a treasury, the greatest economy should be practiced in order that the money received from the sale of stock be available for the construction of the railroad.

Inasmuch as the directors of this company are familiar with men and conditions in the Sacramento Valley where this railroad is to be built and where the stock is being sold, I believe it is reasonable to permit this company to take promissory notes for the sale of its stock, provided that these notes be passed upon and approved by the directors before acceptance, and that sufficient cash be realized upon said notes, without obligating the company to repay said money in the event that said promissory notes are not paid, to pay all commissions of stock salesmen and the expenses of said company. This will retain intact the cash now held by this company. All promissory notes taken by salesmen should be at once delivered to the directors of the company to be passed upon, and in the event of their being disapproved to be immediately returned to the maker.

I submit herewith the following form of supplemental order:

SUPPLEMENTAL ORDER.

Application having been made to the Railroad Commission of the State of California by Sacramento Valley Electric Railroad Company for an order modifying and amending the order made herein on the 13th day of August, 1912, in the particulars set out in the foregoing opinion, and a public hearing having been held, and it appearing to

the Commission that said application should be granted under the conditions in this order set out.

It is hereby ordered by the Railroad Commission of the State of California that the order heretofore made by this Commission herein, dated August 13, 1912, is hereby amended and modified so as to read as follows:

ORDER.

Application having been made to the Railroad Commission of the State of California by Sacramento Valley Electric Railroad Company for an order authorizing the issue by said company of 30,000 shares par value \$3,000,000.00 preferred stock and 7,500 shares par value \$750,000.00 common stock, and authorizing applicant to sell said preferred stock at par and to pay commissions on the sale thereof of 20 per cent, and authorizing the sale or exchange of said common stock for rights of way;

And a hearing having been duly held and it appearing to the Commission that the money and property to be secured by the issue of said stock are necessary and reasonably required by said company for the purpose of procuring rights of way and constructing thereon the railroad as specified in said application and exhibits attached thereto, and the purpose for which the proceeds of the issue of said stock are to be used are not in whole or in part reasonably chargeable to operating expenses or income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Sacramento Valley Electric Railroad Company of \$3,000,000.00 par value preferred stock and \$750,000.00 par value common stock.

Said preferred stock to be sold to net not less than 80 per cent of its par value to the company, provided that said stock may be sold to be paid for in installments, said installments to be not less than \$25.00 cash per share at the time of sale, and the balance in equal installments, payable in not more than three, six and nine months thereafter. Promissory notes bearing interest at not less than six per cent per annum may be taken for the deferred payments. Provided, further, that promissory notes bearing interest at not less than six per cent per annum and payable at not more than one year from their date may be taken for the whole purchase price of said stock, but sufficient money shall be realized from such promissory notes, without obligating the company to repay the same, to pay all commissions paid on the sale of said stock, and in addition the general expenses herein allowed to be paid by the company. Provided, further, that if commissions be paid on the sale of stock they shall not exceed an amount which will yield the aforesaid 80 per cent of the par value of said stock net to

the company. Commissions shall be allowed or paid only for services actually rendered in the sale of stock.

None of the said stock shall be delivered until fully paid for. All promissory notes taken for the above purposes shall be delivered immediately to the board of directors of the company to be approved or disapproved by said board. Where said promissory notes are approved a record of such approval shall be made and kept by said directors, and where said promissory notes are disapproved, the same shall be returned immediately to the makers.

Said common stock may be sold by the company under the conditions above set out for the sale of preferred stock, or said common stock may be exchanged for rights of way over which said railroad is to be constructed and operated, such exchange to be made upon the basis of the fair market value of such rights of way and the par value of the common stock.

Provided that the exchange of common stock for rights of way shall not to be finally consummated until \$750,000.00 on the sale of preferred stock shall have been paid into the treasury of the company. Proper provision, however, may be made for the conditional acquiring of said rights of way in exchange for said common stock pending final consummation of such exchange. Construction of the road shall not be entered upon nor liability created, nor money paid out except for commissions aforesaid until there shall be in the hands of the company from the sale of stock \$750,000.00.

The proceeds from the sale of said preferred stock shall be used for the following purposes:

For the purchase of materials and rolling stock and the construction of an electric railroad in certain territory all as set out in detail in the application and exhibits attached thereto and filed therewith.

Said company is hereby authorized to pay for general expenses, exclusive of commissions paid on the sale of stock, as set out in detail in the statements filed with this Commission, covering the period up to August 31, 1913, an amount equal to \$40,468.42. Said company shall submit for the approval of this Commission a statement similar in form to the one just above mentioned, showing general expenses incurred from said August 31, 1912, to the date of this order. From and after the date of this order, and until the further order of this Commission, said company is authorized to expend for general expenses, similar to those detailed in the statements heretofore made and just above referred to, an amount not to exceed \$1,000.00 per month, provided that said \$1,000.00 shall not be taken from cash now in the hands of applicant, but shall be realized from promissory notes hereafter taken for the sale of stock.

Said company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale or exchange of said stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposal of such stocks during the preceding month, the terms and conditions of such sale or other disposition, the moneys or property realized therefrom and the use and application of such money or property. And in addition thereto said company shall submit to this Commission for its approval the form of all contracts for the sale or exchange of stock, and before the execution thereof, all contracts for grading, bridging, track, including materials and labor, equipments of all kinds and all materials, labor and property involving costs in excess of \$1,000.00.

The authority hereby given to issue such stock shall apply only to stock issued by said company within the time from the first day of August, 1913, to the first day of August, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of September, 1913.

DECISION No. 972.

IN THE MATTER OF THE APPLICATION OF A. A. WEBER, AND ALTA DISTRICT GAS COMPANY, FOR (1) SALE OF DINUBA GAS PLANT, (2) ORDER OF PUBLIC CONVENIENCE AND NECESSITY FOR REEDLEY AND DINUBA, (3) ORDER THAT ALTA DISTRICT GAS COMPANY ISSUE STOCK, AND (4) ORDER AUTHORIZING ALTA DISTRICT GAS COMPANY TO ISSUE FIRST MORTGAGE SECURITIES OR BONDS.

Application No. 663.

Decided September 23, 1913.

Held, Applicant authorized to sell to the Alta District Gas Company his gas generating and distributing plant in the city of Dinuba, also his franchises in the cities of Dinuba and Reedley for \$35,000.00 face value of capital stock of said company.

Held, That Alta District Gas Company be authorized to exercise rights under its franchises in the cities of Dinuba and Reedley; to construct and operate a gas main between these two cities and to construct and operate a gas distributing system in the city of Reedley.

Held, That the Alta District Gas Company be permitted to issue its promissory note in the sum of \$20,000.00, proceeds to be used in construction of its gas distributing plant in the city of Reedley.

Edwards & Smith, for Applicants.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by A. A. Weber and Alta District Gas Company, a corporation, for the following:

1. An order authorizing A. A. Weber to sell to Alta District Gas Company a gas generating and distributing plant and franchises issued by the city of Dinuba and the city of Reedley in consideration of the issuance to said A. A. Weber by said Alta District Gas Company of \$35,000.00 par value of its capital stock.

2. An order authorizing Alta District Gas Company to issue \$35,000.00 par value of its capital stock in exchange for the gas plant and franchises above mentioned.

3. An order authorizing Alta District Gas Company to exercise rights and privileges under franchises heretofore granted by the cities of Dinuba and Reedley.

4. A certificate that public convenience and necessity require the construction and operation of a gas plant in certain portions of the counties of Tulare and Fresno, and the city of Reedley.

5. An order authorizing Alta District Gas Company to exercise rights and privileges under franchises from the counties of Tulare and Fresno, preliminary to the granting of such franchises.

6. An order authorizing the Alta District Gas Company to issue a promissory note in the principal sum of not to exceed \$20,000.00, with interest thereon at a rate not to exceed seven per cent per annum, and to mortgage and encumber its property to secure the payment of said \$20,000.00, said money to be used for the purpose of constructing a gas distributing plant in the city of Reedley, and a main connecting the Dinuba plant with the plant to be constructed in Reedley.

A. A. Weber has heretofore obtained from this Commission a certificate that public convenience and necessity require the construction and operation of a gas plant in the city of Dinuba, and an order authorizing him to exercise rights and privileges under a franchise from the city of Dinuba, applied for but not then granted. Proceeding under this authorization, Weber has constructed a gas generating and

distributing system in the city of Dinuba, and has obtained a franchise from said city for such purpose, and we are now asked to issue a final order authorizing the exercise of rights and privileges under this franchise.

Weber has obtained a franchise from the city of Reedley, permitting him to construct and operate a gas plant in that city, and he contemplates obtaining from the counties of Tulare and Fresno a franchise permitting him to construct and operate a gas main connecting with his Dinuba plant and running through the counties to his Reedley plant, and we are asked to authorize the exercise of rights and privileges under the Reedley franchise now granted and under franchises expected to be granted by the counties of Tulare and Fresno.

There has been organized the Alta District Gas Company, a corporation, with \$45,000.00 capital stock, and it is proposed to turn the Dinuba gas plant over to this corporation, together with the Dinuba and Reedley franchises, and thereafter to operate the Dinuba and Reedley plants and the connecting main by this company. We are asked to permit the payment of \$35,000.00 par value of this company's stock for the above mentioned existing Dinuba plant and the Dinuba and Reedley franchises.

The gas service proposed to be provided for Reedley and intervening territory between Reedley and Dinuba in the counties of Tulare and Fresno is much needed. No gas is now served in any part of this territory except by applicant in Dinuba and the service of gas thereto would be of great benefit.

It appears that the plant installed by Weber at Dinuba is reasonably worth the sum of \$30,000.00, but applicant originally requested the issuance of \$30,000.00 par value of stock in exchange for this plant and these franchises, and in addition, \$7,500.00 par value of stock by way of compensation to Weber and his associates for financing, promoting and constructing the plant. At the hearing this \$7,500.00 of stock was cut down to \$5,000.00. I do not think it necessary to consider whether or not \$5,000.00 of stock could be issued by way of payment for services rendered, because I believe that the issuance of 35,000 shares of stock in exchange for the plant of the value of at least \$30,000.00, which is practically a sale of the stock on a basis of about 85 per cent of par, is reasonable.

The franchises obtained in Dinuba and Reedley provide that the maximum price for gas sold thereunder shall not be more than \$1.25 per thousand. It is stated that the application to be made to the county authorities for franchises in Tulare and Fresno counties will also contain the \$1.25 per thousand feet maximum price.

I recommend that the application be granted, and submit the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by A. A. Weber and Alta District Gas Company for orders and certificates, as enumerated in the foregoing opinion, and a public hearing having been held, and it appearing to this Commission that said application should be granted,

It is hereby ordered by the Railroad Commission of the State of California, as follows:

1. A. A. Weber is hereby authorized to sell to Alta District Gas Company that certain gas generating and distributing plant and appurtenances located in the city of Dinuba, a detailed description of which said plant is on file with the application herein, and marked "Description of Dinuba gas plant," together with a franchise heretofore granted said A. A. Weber by the city of Dinuba and one by the city of Reedley, and said Alta District Gas Company is hereby authorized to purchase said plant and said franchise and in consideration therefor, to issue and deliver to said A. A. Weber or order, \$35,000.00 par value of its capital stock, provided that all of said property shall be delivered to said Alta District Gas Company free and clear of encumbrances.

2. Alta District Gas Company is hereby authorized to exercise rights and privileges under a franchise heretofore granted by said city of Dinuba to said A. A. Weber, and rights and privileges under a franchise heretofore granted by the city of Reedley to said A. A. Weber, copies of both said franchises being on file with the application herein.

3. It is hereby further ordered that this Commission will, upon presentation to it of a franchise for the construction and operation of a gas main located in the counties of Tulare and Fresno and connecting the gas plant now established in the city of Dinuba and the gas plant to be constructed in the city of Reedley, duly granted by the counties of Tulare and Fresno to said Alta District Gas Company, and satisfactory in form and terms to the Railroad Commission of the State of California, issue its certificate that public convenience and necessity require the exercise of rights and privileges under said franchises.

4. It is hereby further ordered that public convenience and necessity require that said Alta District Gas Company construct and operate in the counties of Tulare and Fresno a gas main connecting the gas plant in the city of Dinuba with a gas distributing system to be constructed in the city of Reedley, and further, that public convenience and necessity require that said Alta District Gas Company construct, maintain and operate a gas distributing system in the city of Reedley.

5. The Alta District Gas Company is hereby authorized to issue its promissory note in the principal sum of not to exceed \$20,000.00, with

interest thereon at a rate not to exceed seven per cent per annum, payable within five years from its date, and said Alta District Gas Company is further authorized to mortgage its property for the purpose of securing the payment of said promissory note, provided that said money shall be used solely for the purpose of constructing a gas distributing system in the city of Reedley and a gas main connecting the gas plant in the city of Dinuba with said distributing system in the city of Reedley, and provided, further, that before any of said money shall be spent there shall be submitted for the approval of this Commission detailed plans and estimates showing the plant and the probable cost thereof, which it is proposed to install as above described.

6. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the issuance of said promissory note hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the terms and conditions of the issuance of said promissory note, the moneys realized therefrom and the use and application of such moneys.

7. The authority hereby given to issue such promissory note shall apply only to a note issued by said company on or before the first day of April, 1914.

8. Immediately upon making the transfer of stock above authorized, report shall be made to this Commission showing the details of such transactions.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of September, 1913.

DECISION No. 973.

IN THE MATTER OF THE APPLICATION OF DELANO-LINNS
VALLEY TELEPHONE COMPANY FOR AUTHORITY TO
ISSUE A NOTE IN THE SUM OF SEVEN HUNDRED
DOLLARS.

Application No. 741.

Decided September 30, 1913.

Applicant permitted to issue its promissory note in the sum of \$700.00 in lieu of a note previously issued without the Commission's authorization.

A. L. Wilson, called on invitation of the Commission.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application involving the authorization of the Commission to issue a corporation note in the sum of seven hundred (\$700.00) dollars to the First National Bank of Delano, California, in lieu of a note previously given to the said bank on September 3, 1913, without the authorization of the Commission.

The note issued on September 3, 1913, was made payable on or before twelve months from date with interest at the rate of 8 per cent per annum, and was given said bank in lieu of a note dated August 14, 1912, and made payable one year after date, with interest payable quarterly at 8 per cent per annum.

The applicant company is a small company not thoroughly familiar with the requirements of the Public Utilities Act with reference to transactions of the nature involved, and it is evident that no violation of the act requiring the approval of the Commission was intended.

An examination of the financial statement submitted by the applicant shows that its total receipts as of January 1, 1913, including certain authorized sales of stock, were \$381.25 and it has paid out for operating expenses (inclusive of interest on the \$700.00 note formerly issued) a total of \$351.99, leaving a balance on hand as at the date of the report of \$29.26.

It is further apparent that the purpose of this application is not to increase the present indebtedness of the Delano-Linns Valley Telephone Company, but to issue a note under the authority of the Commission in the sum of \$700.00 in lieu of a note for the same amount erroneously issued without the prior approval of the Commission. On this showing, the following order is recommended:

ORDER.

Application having been made to this Commission by Delano-Linns Valley Telephone Company for an order authorizing it to issue a note in the sum of \$700.00 in lieu of a note previously issued on September 3, 1913, without the authorization of the Commission in ignorance of the provisions of the Public Utilities Act, and a hearing having been held thereon, and it appearing that the purpose of this application is not to increase the present indebtedness of the Delano-Linns Valley Telephone Company but to issue a note under the authority of the Commission for \$700.00 in lieu of a note for a like amount erroneously issued without the approval of the Commission,

It is hereby ordered that Delano-Linns Valley Telephone Company be and it hereby is granted authority to issue a note in the sum hereinbefore specified, payable on or before twelve months from date, with

interest at the rate of 8 per cent per annum, in lieu of a note in the same amount issued on September 3, 1913, without the prior authorization of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of September, 1913.

DECISION No. 974.

CHARLES LEROY BUTLER

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 451.

Decided September 30, 1913.

Complainant petitions the Commission to compel defendant to extend its distributing system for gas and electric service to the house owned by complainant in North Cragmont.

Held, That defendant be required to extend service as prayed for on condition that complainant agrees to pay for one year the sum of \$2.25 per month in addition to the regular rates for such service, said sum to be reduced 50 cents on the addition of each new consumer in this district.

Charles LeRoy Butler, for Complainant.

Charles P. Cutton, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is a complaint to compel the defendant to extend its gas and electric service to complainant's premises.

Complainant has built a home on Lot 32, Block 22, in the tract known as North Cragmont, in unincorporated territory adjacent to the north-easterly limits of the city of Berkeley. He alleges that he has requested the defendant to serve him with both gas and electricity, but that the defendant has refused to do so on the ground that the cost of making the necessary extensions would be greater than the revenue to be derived from the service would warrant. The hearing in this case was held on September 25, 1913.

It appeared at the hearing that complainant has built a home on the hills northeast of Berkeley on Keeler avenue, near its intersection with

Miller avenue, in the tract known as North Cragmont. While this house is several blocks distant from the nearest gas service and the nearest electric service of the defendant company, the complainant contended that the defendant company should nevertheless extend its system to his premises at its own expense and that he should be served at the prevailing prices of the defendant in this territory for gas and electricity. The gas rate is 90 cents per thousand cubic feet with a minimum of 50 cents per month, and the electric rate 7 cents per kilowatt hour with a minimum of \$1.00 per month. The complainant introduced evidence to show that the North Cragmont tract is growing rapidly, and that the defendant company will soon have to build gas mains and electric wires to points near his premises to take care of the growing business.

The defendant company contended that if it is compelled to serve the complainant with gas it will be compelled to build a 4-inch gas pipe from the present terminus at Spruce and Marin streets, Berkeley, a distance of 1,800 feet easterly along Marin avenue, and then a 2-inch pipe southerly along Keeler avenue a distance of 760 feet to complainant's premises, and that the total cost will be \$1,672.00; also that if it is compelled to serve complainant with electricity it will be obliged to extend its primary wire from Spruce and Regal streets, Berkeley, to Keeler and Miller avenues, installing 17 poles and 7,500 feet of wire, and that the total cost will be \$458.95. Defendant contended that there is no present need for either of these extensions and that it would be unfair to compel it to invest this capital to serve a single present customer. Defendant offered that if complainant would advance the cost of making the gas and electric extensions, it would repay him each month 20 per cent of his monthly bills and 20 per cent of the monthly bills of any other person served from the extensions until the full cost advanced by complainant should have been repaid, at which time complainant should convey to defendant the title to the extensions in the streets.

The evidence shows that the tract called North Cragmont was first built upon in 1912; that building operations thereon, particularly in the lower westerly portion, between Spruce and Euclid avenues, have been rapid; that there are now about twenty-five houses on the tract, of which fifteen were erected during the last year; that out of some fifteen hundred lots some one thousand have already been sold, and that quite a number of people contemplate building soon.

Statistics supplied by the defendant company show that in 1912 it served five customers in this tract with gas and at the end of the first half of 1913, eleven; that defendant in 1912 sold 56,600 cubic feet of gas in this tract and during the first half of 1913, 255,000 cubic feet; that in 1912 the receipts from the sale of gas were \$51.30 and during

the first half of 1913, \$226.18; that in 1912 six applications for gas service were made and in 1913, up to September 15, 1913, twenty; that three applications for gas service, including that of the complainant, have not been filled, and that while the investment for gas distribution in this tract was \$644.30 in 1912, it increased only \$34.00 during the first half of 1913, while the customers more than doubled.

The evidence shows that Marin avenue is the east and west axis of the tract, and that when the tract develops a gas pipe of a diameter of at least 4 inches will have to be extended from the present terminus on Spruce street, in Berkeley, easterly along this avenue. If the gas pipe were extended along this avenue at the present time, service could be given therefrom to Miss Hoskins, living on Lot 22 in Block 4, on Cragmont avenue, and to Mr. Runnels, who is building on Lot 1 in Block 15 at the intersection of Marin and Euclid avenues and Bonnie lane, both of whom desire to use gas. As other houses are erected to the south and north, they could also be served from this main axis.

Witnesses testified that if gas and electricity could be had, they would build on Lot 27, Block 22; Lot 31, Block 22, and Lots 1 and 2, Block 25—all of which premises would be served by the line to complainant's premises and on extension thereof to Miller avenue and Latham lane.

The question presented by this complaint, particularly with reference to the gas extension, is a difficult one. Careful consideration must be given to the rights of both parties, so that the conclusion arrived at will be just to each. While it is undoubtedly the duty of the gas company to build all extensions within certain territory at its own expense, it is equally clear that there must be some limit beyond which such action on the part of the gas company might result in incurring unreasonable capital expenditures which would cast unduly large burdens on the existing consumers. In sparsely settled districts the problem is more difficult than in cities and towns and more thickly settled territory, in which it is almost uniformly the duty of the utility to make the extensions at its own cost. At the same time, it can not be expected that extensions in sparsely settled territory will always pay the same return which the utility expects to receive within more thickly settled territory; otherwise the people in the cities would be receiving service at comparatively low rates, while those outside would largely receive no service at all.

In considering the problem in each particular instance, consideration must also be given to the question whether the territory is growing so that a particular extension will later be used to serve an increasing number of customers instead of serving only the one for whose immediate use it was constructed. In the present case the defendant will before long be obliged to extend its gas pipe up Marin avenue entirely irrespective of the complainant's demand for service.

The Commission has established no fixed rule to govern these cases. Each case must be dealt with on its own merits, bearing in mind the undoubted duty of the utility to extend entirely at its own expense in certain territory. In the present case I find that the public convenience and necessity, based on the present demand and the prospects for the immediate future, require the extension of defendant's 4-inch gas main at its own expense part way along Marin avenue, to the west line of Bonnie lane, but that it would not be fair to compel the defendant to extend beyond that point at the present time unless the consumer pays in addition to the regular rate an additional sum each month sufficient to compensate the defendant for interest, maintenance and depreciation on the necessary extension beyond that point. In the present case it would take about 1,461 feet of pipe beyond this point to reach the complainant's premises. Applying the average cost of 2-inch pipe hitherto installed by the defendant in this district, I find that this extension, exclusive of service connection and meter, would cost \$247.78. If 11 per cent per annum is allowed for interest, depreciation and maintenance, \$27.25 per year or about \$2.25 per month will be necessary for interest, maintenance and depreciation. I accordingly find that the defendant should extend its gas pipes and serve the complainant with gas, but only if he will first enter into a written agreement to pay to defendant, in addition to the regular rates for gas, the sum of \$2.25 per month on condition that for each additional customer served from the extension beyond the west point of Bonnie lane the sum of \$2.25 shall be reduced by 50 cents per month until it is entirely wiped out. Complainant shall also in said agreement agree that he will pay defendant the said sum of \$2.25 or such lesser amount for the full period of one year after the pipe is laid to his premises, whether he uses gas or not.

Defendant urged that it had no franchise to deliver gas at any point in Alameda County outside of the limits of incorporated cities and towns. Notwithstanding this fact, defendant has been serving customers in Cragmont, North Cragmont, Thousand Oaks, Rust and other places in Alameda County, and in so doing has been laying its pipes along and across public highways. Counsel for defendant stated that application would be made promptly to the board of supervisors of the county of Alameda for a franchise. This course should certainly be followed. In view of the statement that this application will be made, I recommend that no specific order be made at the present time directing the defendant to make such application. As the defendant can not lawfully extend its gas pipes on the public roads and highways without a franchise from the county, the Commission will expect the defendant to proceed with all possible expedition and to include North Cragmont in its application.

Referring now to the extension for the electric service, it appeared at the hearing that the telephone company has built a line partly on private property to the complainant's house; that the defendant has an agreement with the telephone company by which it may use the latter company's poles; that by doing so the cost to defendant of extending its electric service to complainant's house will be reduced from \$458.95 to about \$180.00; that this extension may hereafter be used to serve other customers, and that it is reasonable that defendant should make this extension at its own expense without the payment by complainant of any compensation other than the regular rates. I recommend that defendant be directed to extend its electric system to complainant's house and to serve him at the regular rates. The observations hereinbefore made as to the need of securing a franchise to serve gas would seem to apply equally to a franchise for the service of electricity.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled case and each side having introduced evidence, and the case having been submitted and being now ready for decision, and the Commission finding that the directions hereinafter given are just and reasonable,

It is hereby ordered that Pacific Gas and Electric Company be and the same is hereby directed to extend its 4-inch gas pipe from its present terminus at the intersection of Spruce street and Marin avenue, in Berkeley, California, easterly along Marin avenue to a point at or near the west line of Bonnie lane and thence with a pipe of such diameter as in its judgment may be necessary to the premises of the complainant in this proceeding, and thereafter to serve said premises with gas, on condition that complainant shall first enter into a written agreement to pay to defendant, in addition to the regular rates for gas, the sum of two and 25/100 (\$2.25) dollars per month, on condition that for each additional customer served from the extension beyond the west point of Bonnie lane, the sum of two and 25/100 (\$2.25) dollars shall be reduced by fifty (50¢) cents per month until it is entirely wiped out. Complainant shall also agree in said agreement that he will pay defendant said sum of two and 25/100 (\$2.25) dollars or such lesser amount for the full period of one year after the pipe is laid to his premises, whether he uses gas or not.

And it is further ordered that Pacific Gas and Electric Company be and it is hereby directed to extend its electric system to the premises of complainant at its own sole cost and expense, and thereafter to serve said premises with electricity at the regular rates.

And it is further ordered that if any apparently unreasonable delays be incurred in the execution of this order, complainant may make further representations to this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of September, 1913.

DECISION No. 975.

IN THE MATTER OF THE APPLICATION OF SONOMA VALLEY
WATER, LIGHT AND POWER COMPANY TO ISSUE BONDS
OF THE FACE VALUE OF THIRTY THOUSAND DOLLARS.

Application No. 755.

Decided September 30, 1913.

Applicant permitted to issue bonds of the face value of \$30,000.00, proceeds to be used partly to refund outstanding indebtedness and the balance for betterments and additions to plant.

S. L. Bright, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application of Sonoma Valley Water, Light and Power Company for authority to issue bonds of the face value of \$30,000.00, for the purposes hereinafter specified.

The applicant was incorporated under the laws of this State on December 15, 1910, with power to conduct different kinds of business, including the business of a water utility. The applicant's principal place of business is specified in the articles of incorporation as being El Verano, Sonoma County, California. Applicant supplies water to the people of El Verano and vicinity, and also to a portion of the people of Sonoma and vicinity. Applicant has one competitor in the city of Sonoma. Applicant derives its water in part from Kerrigan Creek and in part from an artesian well in Sonoma, which flows at the rate of about 3,500 gallons per hour. Applicant has at present about 105 customers, but claims that it has sufficient water to supply five times this number of customers. Applicant also claims that it will shortly enter into a contract to supply the town of Sonoma with water for fire protection, and that it is about to supply water to a number of new subdivisions, which are being opened in the vicinity of its operations.

Applicant's capital stock, amounting to 100,000 shares of the par value of \$1.00 each, has all been issued, and is all held, with the exception of a few shares to qualify directors, by Mr. S. L. Bright. The corporation has no bonded indebtedness. It owes \$9,497.00, as will hereinafter appear in greater detail. At present applicant has a monthly revenue of \$225.00 and a monthly operating expense of \$125.00.

Applicant claims to have spent some \$45,000.00 in the development of its plant within the last two or three years, and to own in addition to the plant certain land and water rights which it estimates to be worth \$30,000.00. Of this amount some \$10,000.00 represents the alleged value of water rights. It is not necessary in this application to pass on the question of the value of these water rights.

Applicant now desires to issue its first mortgage bonds of the face value of \$30,000.00, and to use the proceeds thereof partly for the purpose of paying outstanding obligations and partly for the purpose of new construction.

The outstanding obligations are as follows:

| | |
|---|-------------------|
| Cash advanced by International Mercantile and Bond Company, evidenced by applicant's note----- | \$5,150 00 |
| Due for water meters----- | 860 00 |
| Due for boring well----- | 280 00 |
| Due for pumps and dynamo----- | 560 00 |
| Due for experting books----- | 200 00 |
| Due for attorney's fees to date----- | 2,150 00 |
| Miscellaneous indebtedness----- | 297 00 |
| Total ----- | \$9,497 00 |

Of the foregoing items, I find that all are proper capital expenditures except the item for experting books, which would seem to be more properly an operating expense. The attorney's fees were incurred in defending the title to certain of applicant's water rights, and while I do not desire to pass in this application on the question of whether such attorney's fees are, as a general rule, properly chargeable to capital account, they can be so charged in this application without injury to the public, by reason of the very substantial margin between the value of the property and the amount of the bonds which it is intended to issue.

Applicant desires also to excavate the site of its present reservoir some two feet deeper and to line the reservoir with concrete; also to extend its pipe lines to serve new customers; also to dig another artesian well, and possibly to construct a new dam across Kerrigan Creek. Applicant estimates that the cost of this new construction work will amount to somewhat less than \$20,000.00, and that as the result of these improvements, it will be able to increase its gross revenue from \$225.00 per month to nearly \$1,000.00 per month, with but slight increase in operating expenses.

Applicant has made no definite arrangements for the issue of its bonds, but expects to have them bear interest at the rate of 6 per cent per annum, and to set aside \$1,000.00 a year for a sinking fund. Applicant asks authority to issue its bonds so as to net applicant not less than 82½ per cent of the face value thereof, but applicant hopes to be able to sell the bonds so as to actually net 94 per cent or 95 per cent of their face value. These bonds will probably be taken by Mr. Bright and personal friends. They will be secured by a first mortgage, which will probably run to the First Federal Trust Company as trustee.

I find that the purposes for which the obligations of the applicant have been incurred (with the exception of the item for experting books) and also those for which applicant hereafter intends to incur indebtedness are all properly chargeable to capital account. I find that there will be an undoubted sufficient margin between the value of the property and the amount of bonds outstanding if the application is granted, and that there is a reasonable prospect of ability to meet interest and sinking fund payments on the bonds. I find further that the development work which applicant intends to perform will be of advantage to the public in the territory served by applicant, and believe that this work should be encouraged.

I recommend that the application be granted, subject to the conditions contained in the order, and submit herewith the following form of order:

ORDER.

Sonoma Valley Water, Light and Power Company having applied to the Railroad Commission for authority to issue its bonds of the face value of thirty thousand dollars (\$30,000), said bonds to bear interest at the rate of six (6%) per cent per annum and to be secured by a first mortgage on all of said company's property, and a public hearing having been held upon said application, and the Commission finding that the moneys to be procured by the issue of said bonds are necessary and reasonably required by said company for the discharge or lawful refunding of outstanding obligations and for the acquisition of property and the construction, completion, extension and improvement of its facilities, as will hereinafter appear in greater detail, and the Commission further finding that the purposes for which said moneys are to be used are not in whole or in part reasonably chargeable to operating expense or to income,

It is hereby ordered that Sonoma Valley Water, Light and Power Company be and it is hereby authorized to issue its bonds of the face value of thirty thousand dollars (\$30,000), bearing interest at the rate of six (6%) per cent per annum, on the following conditions and not otherwise, to wit:

1. Sonoma Valley Water, Light and Power Company shall sell said bonds hereby authorized so as to net said company not less than eighty-two and one half ($82\frac{1}{2}\%$) per cent of the par value of the principal thereof.

2. The proceeds from the sale of said bonds shall be applied only to the following purposes, that is to say:

(a) For the discharge or refunding of obligations of the company as follows:

| | |
|--|------------|
| Discharge of note to International Mercantile and Bond Co. | \$5,150 00 |
| Discharge of indebtedness for water meters | 860 00 |
| Discharge of indebtedness for boring well | 280 00 |
| Discharge of indebtedness for pumps and dynamo | 560 00 |
| Discharge of indebtedness for attorney's fees | 2,150 00 |
| Discharge of miscellaneous indebtedness | 297 00 |
| Totals | \$9,297 00 |

(b) For the acquisition of property and the construction, completion, extension and improvement of its facilities, including the excavation of the company's present reservoir and the lining of the same with concrete, the extension of pipe lines, the construction of an additional artesian well and the construction of a dam across Kerrigan Creek, the proceeds remaining from the sale of said bonds after the foregoing obligations have been paid, not to exceed the sum of \$18,000.00.

3. This order shall not become effective until Sonoma Valley Water, Light and Power Company shall have filed with this Commission a form of trust deed or mortgage satisfactory to the Commission to secure the issue of the bonds hereby authorized and containing a form of said bonds.

4. Sonoma Valley Water, Light and Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

6. This order shall apply only to bonds issued prior to October 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of September, 1913.

DECISION No. 976.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA
GAS AND POWER COMPANY FOR PERMISSION TO
RENEW NOTE.

Application No. 719.*Decided September 30, 1913.*

Applicant permitted to issue its 6 per cent promissory note in the sum of \$1,000.00, said note to be in renewal of a note previously issued.

R. E. Easton, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

This application came on regularly for hearing Monday, September 29, 1913, at ten o'clock a. m., and the testimony disclosed the following condition of facts:

Applicant is a corporation with principal place of business at Santa Maria, California; that in the conduct of its business, applicant considered it necessary to purchase an automobile and, incident to said purchase, it issued its note to Charles F. Black in the sum of \$1,350.00, interest at 6 per cent, said note bearing date of August 31, 1912; that between said date of August 31, 1912 and the date of filing its application to renew said note, to wit: August 29, 1913, it had paid on said note the sum of \$350.00, leaving a balance due of \$1,000.00, for which sum it prays permission to give its one-day note, bearing interest at 6 per cent.

For the financial condition of applicant, reference is made to Application No. 126, in which applicant requested permission to issue bonds in the sum of \$50,000.00, which permission was granted under date of July 30, 1912.

There seems to be no reason why the petition of applicant to give its one-day note for \$1,000.00, bearing interest at 6 per cent, should not be renewed, and I recommend the following order:

ORDER.

Santa Maria Gas and Power Company having applied to this Commission for an order authorizing it to execute its one-day note, in the amount of one thousand dollars (\$1,000), bearing interest at the rate of six (6%) per cent per annum, said note representing the balance due on a note for one thousand three hundred and fifty dollars (\$1,350), heretofore executed by applicant on August 31, 1912, and a public

hearing having been held upon said application, and it appearing that the same should be granted,

It is hereby ordered that Santa Maria Gas and Power Company be and it is hereby authorized to execute its one-day promissory note for the sum of one thousand dollars (\$1,000), bearing interest at the rate of six (6%) per cent per annum, payable to Charles F. Black, for the purpose of refunding applicant's promissory note dated August 31, 1912, on which note a balance of one thousand dollars (\$1,000) is now due, on the following conditions and not otherwise, to wit:

1. Applicant shall report to this Commission the fact of issuance of the note when issued, and the terms thereof.

2. The authority hereby given shall apply only to such promissory note as may be executed prior to November 1, 1913.

3. The authority hereby given shall not become effective until applicant has paid the minimum fee prescribed in section 57 of the Public Utilities Act, as amended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of September, 1913.

DECISION No. 977.

IN THE MATTER OF THE INVESTIGATION OF THE FAILURE
OF THE BRIDGE OF THE NORTHERN ELECTRIC RAIL-
WAY COMPANY ACROSS THE AMERICAN RIVER, OCCUR-
RING SEPTEMBER 9, 1913.

Case No. 473.

Decided September 30, 1913.

REPORT OF THE COMMISSION.

The above accident occurred at 9.06 p. m. on September 9, 1913, and the Commission instructed its Engineering Department to make a thorough investigation and report, which has been done, and this report so fully covers the substantial matters to which we believe the Commission should give its attention that we have decided to adopt this report as the report of the Commission in this matter, and it is so ordered.

A copy of the report is attached hereto and made a part of this order.

Dated at San Francisco, California, this 30th day of September, 1913.

SAN FRANCISCO, CAL., Sept. 18, 1913.

Railroad Commission of California, San Francisco, California.

DEAR SIRs: On September 9th, at 9.06 p. m., the south end span of the Northern Electric Railway Company's bridge across the American River, near Sacramento, collapsed while a switching movement of gondola cars, loaded with gravel, was being made, resulting in the death of Engineer H. C. Stevens and the injury by scalding, due to escaping steam, of Fireman A. G. Williams. After an investigation of the causes of this accident, I beg to submit the following report:

This bridge is located between a county highway bridge and the bridge of the Western Pacific Railway Company over the American River, approximately $1\frac{1}{2}$ miles north of Sacramento. It consisted of five 150-foot Pratt truss spans on pile piers, with short trestle approaches at each end. The tension truss members were of steel, and the compression members of Oregon pine. Pier and truss plans are attached to and made a part of this report, as are also four photographs taken of the collapsed span, plat showing track layout south of the bridge and two stress sheets—No. 1 showing the stresses of the different truss members under a live load of 4,000 pounds per lineal foot, for which the bridge was designed, and stress sheet No. 2 showing the stresses under a live load of 5,000 pounds per lineal foot, which was a greater load than the truss was carrying at the time the bridge failed. No unit stresses were higher than allowable safe stresses, and a thorough inspection of the wrecked truss failed to reveal any causes for the bridge failure.

This bridge was constructed in 1906, when San Francisco was rebuilding after the fire. The best class of piling was very expensive and difficult to obtain, consequently the pier piles secured and driven were of mountain pine and spruce. Before purchasing this piling, the railway company thoroughly tested this class of timber and found same had a tensile strength equal to that of the northern timber. However, this class of piling does not have the lasting qualities that the timber from the northern woods does, and its life is considerably shorter.

At the time of the bridge failure, a switching crew was engaged in switching gondola cars loaded with gravel from the Southern Pacific transfer tracks to the Northern Electric Railway Company's yard track south of the river (tracks A to B on attached track layout plans). In making this switch movement it was necessary to come out over the bridge, as the switch is located very close to the south end of the

bridge. The cars were being handled by a steam locomotive which had been leased from the Southern Pacific Company for freight service. This locomotive was an eight-wheel passenger type locomotive. The gross weights of the locomotive, tender and cars, with contents, were as follows:

| | |
|---------------------------|-----------------|
| Locomotive ----- | 98,000 pounds. |
| Tender loaded ----- | 100,400 pounds. |
| S. P. car No. 91050 ----- | 147,800 pounds. |
| S. P. car No. 91026 ----- | 146,000 pounds. |
| S. P. car No. 91023 ----- | 149,200 pounds. |
| S. P. car No. 91285 ----- | 149,900 pounds. |

The train with the locomotive backing had pulled onto the bridge far enough to clear the switch when the air was applied by the engineer and the bridge collapsed. At that time the locomotive, three cars and the front trucks of the tender and also the front trucks of the fourth car were on the south 150-foot span, which was the span that collapsed. The accompanying photographs show the condition of the wreck. The south pier was totally destroyed; all of the nineteen piles were broken off and the next supporting pier was pushed north approximately 12 inches, and two piles were broken off. Immediately after the collapse of the span, the clearing of the wreckage began, and some of the timber of the south pier was burned that night to furnish light for the workmen. However, the tops of nine of the nineteen piles in the south pier were found and all were thoroughly decayed at the point of breakage. Thirteen of the nineteen stumps were examined and showed the same condition as the nine pile tops examined. These piles were so thoroughly decayed that there was no sound wood in them where the fracture occurred. There was from four to six inches of wood in the condition commonly called dry rot where the wood seemed more or less firm, but on close examination proved to be brittle and "punky." After excavating around these pile stumps, same were tested near the point of fracture and it was found that a pick sunk into the center of most of them could be pulled out with one hand, bringing with it a piece of decayed wood as large as a 2-inch cube. The other six pile stumps in the south pier were inaccessible on account of wreckage and débris piled over and around them.

The point of greatest danger in all timber bridges of this class is at the ground line where the timber is exposed to the air and is alternately wet and dry. Filling at the south end of the bridge and around the south pier to a depth of two or three feet had been done about three years ago. This filling was made apparent while excavating around the pile stumps, but how much had been done could not be determined exactly. The fracture in the piles occurred at what was undoubtedly the original ground line; two or three feet above the point of fracture, in the nine pile heads examined, there was considerable sound wood.

With 5,000 pounds live load and 1,600 pounds dead load per lineal foot of bridge, as shown by the stress sheets, these nineteen piles in the pier that failed were each under a load of from thirteen to fifteen tons, and it is doubtful if in their decayed condition they were able to carry such a load. They could probably resist a considerable direct load while unable to stand even a slight transverse strain.

The failure of the bridge was caused by the decay of the piles to such an extent that they were unable to bear the direct load imposed upon them, and were also unable to withstand the transverse strain put upon them by the sudden application of the air brakes to the heavy load on the span. This sudden application of the brakes, even though the train was moving at a slow speed, caused the slack between the drawheads to run up and created an impact which forced the truss in the direction in which the train was moving, namely, to the north. This movement threw a transverse strain upon the piles, broke them off and caused the failure of the pier and the collapse of the span.

If the officers of the railroad are responsible for this accident, it is because the bridge was not examined thoroughly enough to disclose its true condition; and that if its true condition was known, that an order restricting the loads which were to be imposed upon the bridge was not issued when it was found that the pier was defective enough to require replacement. However, it is only fair to the railroad officials to state that the movement of gravel over this bridge is unusual and is much heavier than their usual trains. The cars in the accident were loaded in the neighborhood of Oroville, and were brought by the Southern Pacific Company to Sacramento for delivery to the Oakland, Antioch and Eastern Railway Company. It is usual to deliver this material on the interchange track of the Central California Traction Company (this track is also used for the same purpose by the Northern Electric Railway Company), located on Front and X streets, where the Northern Electric Railway Company secure the cars and take them across the Sacramento River and deliver them to the Oakland, Antioch and Eastern Railway.

On Monday, the day of the accident, due to the heavy traffic for the State Fair, this track was filled with cars and the Southern Pacific Company was unable to place the gravel cars as customary. The cars were taken about $2\frac{1}{2}$ mile from this point to a connecting track between the Northern Electric Railway Company and the Southern Pacific Company, near the American River, and delivered there. It was while switching these cars to take them back over the track of the Northern Electric Railway Company that the accident occurred.

In August of this year a general inspection of the bridges on the Northern Electric Railway Company's lines was made by Assistant

Engineer Brown, accompanied by General Bridge Foreman McGregor. This particular bridge was inspected by Mr. Brown, McGregor and Bridge Foreman Brewster about August 10th, and a report of its condition and recommendation was made by Mr. Brown in his general report of bridges rendered to the General Manager on August 15, 1913. His report of this bridge is as follows:

"1. 2A—AMERICAN RIVER BRIDGE.

Description: 6 pile piers, 19 to 30 piles each; five 150-foot spans. One-panel trestle approach south end; 2-panel trestle approach north end.

Condition: Approaches good for at least one year. *Pier 1, south bank, 10 of the 19 piles need renewal.* Piers 2, 3, 4, 5, river piers: The piling in good condition. *Pier 6, north bank pier, needs 9 of the 19 piles renewed.* Floors of piers are just now being renewed, and the trusses are in good condition.

Recommendation: Reinforce piers 1 and 6 by bolting shore timbers to the bad piling. Piles are only affected for a distance of 2 feet below to 2 or 3 feet above ground. The shore timbers would, by being bolted to good sound timbers below and above, extend the life of the bank piers to such time as the stream piers would have to be renewed."

Shortly after receiving this report Mr. Schindler, the general manager, accompanied by Mr. Rowray, the superintendent of the company, and also the superintendent of a large bridge contracting firm of San Francisco (Thompson Bridge Company), inspected this bridge and their decision was, in regard to the shore piers, that they were safe until they could be conveniently renewed. However, Mr. Schindler decided that these shore piers should be replaced by concrete instead of following the recommendations of Mr. Brown, and cement had been ordered, and piling for false work was on the ground at the time of the accident.

Mr. Schindler is a civil engineer, and has had considerable bridge experience, and inasmuch as temporary bents, at a cost of less than \$100.00, could have been placed which would have made this span safe until the permanent concrete pier was erected, I am satisfied that the true condition of the piling was not known, and that all persons who inspected the bridge were not aware or had forgotten the fact that a fill two feet or three feet around the south end of the bridge and the south pier had been made, and thus they failed to examine the piles at the critical point, namely, the original ground line, which is the place where the piles failed. Mr. Brown says that he did not know of this filling, which is undoubtedly the case, for the piles fractured at a point from two to three feet lower than the lowest point reached by Mr. Brown in his examination.

The cause of this bridge failure was the decayed condition of the piling in the south piers, which were unable to withstand the stress placed upon them by the heavily-loaded gravel train and engine being brought to a sudden stop on the span by the application of the air brakes.

Attached to this report and made a part thereof are four photographs showing the wreck of the collapsed span and train, two plans of the truss over the American River, two plans of pile piers, two strain sheets and a plan showing the track layout at the American River bridge.

Respectfully submitted.

W. C. EARLE, Chief Engineer.

DECISION No. 978.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE
PROPERTY OF SACRAMENTO VALLEY AND EASTERN
RAILWAY COMPANY.

Case No. 187.

Decided September 30, 1913.

Proceeding on motion of Commission to ascertain various elements entering into the value of respondent's property. Findings made as to facts, but not on the question of the value of the property, irrespective of the purposes for which the value is ascertained. Opinion and findings in Case No. 206 referred to for general procedure in valuation cases.

Findings of fact: (1) That the reproduction value of the operative property of respondent as of June 30, 1912, is the sum of \$475,002.04; (2) That the present value of the operative property of respondent as of June 30, 1912, is the sum of \$424,678.07.

Thomas B. Dozier, for Sacramento Valley and Eastern Railway Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This proceeding was brought on the Railroad Commission's initiative for the purpose of ascertaining the elements entering into the value of the property of Sacramento Valley and Eastern Railway Company. This property is situated entirely in Shasta County, California. For the general procedure in these valuation cases and for a general description of the work performed by this Commission's engineering department therein, reference is hereby made to this Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company, and Case No. 210, being the matter of ascertaining the value of the property of Tonopah and Tidewater Railroad Company.

As in those cases, so here also, I shall confine myself to making findings of fact and shall not make a finding on the ultimate question of the value of the property, irrespective of the purpose for which the value is ascertained.

At the outset I desire to define certain terms which will be used herein.

The term "original book cost," as used in this opinion, means the actual expenditure chargeable to capital account in accordance with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission for steam roads, made by the railway company for its operative property as of June 30, 1912.

The term "reproduction value," as used in this opinion, means the estimated cost in cash of acquiring the operative right of way and other real estate and of repurchasing in the condition in which it was acquired the other physical property of the railway company, as of June 30, 1912, to which are added overhead expenditures for engineering, law, interest and commissions, and similar items.

The term "present value," as used in this opinion, means the "reproduction value" less the diminution in value of the physical elements of the property, due to use, age, obsolescence, inadequacy and other causes, plus appreciation where found. This might properly be called "depreciated reproduction value," and does not mean the ultimate fact of present value as that term is ordinarily used.

In accordance with this Commission's order dated March 11, 1912, the Sacramento Valley and Eastern Railway Company on July 31, 1912, filed an inventory of its property, together with a statement of its original book cost, and an estimate of its reproduction value and present value. A copy of the company's final summary sheet is attached to this opinion and marked "Exhibit A."

On October 15, 1912, this Commission's engineering department submitted its detailed report in the above entitled proceeding. Thereafter, on August 25, 1913, the engineering department submitted a supplemental report, in which report no change is made in the original book value, but the reproduction value is increased from \$392,382.05 to \$445,066.25, and the present value is increased from \$349,619.35 to \$400,442.36. A copy of the engineering department's estimate as so revised is attached hereto and marked "Exhibit B."

Thereafter, on September 5 and 6, 1913, the hearing was held in this proceeding. The railway company was represented by counsel and made certain objections to the report of this Commission's engineering department, as revised, particularly with reference to certain items in

present value and the same items in reproduction value. These objections will hereinafter be considered in detail. A revised final summary sheet containing the Commission's findings is attached hereto and marked "Exhibit C."

As is usual in these valuation proceedings, I shall, in connection with this inquiry, consider the following matters:

- (1) Organization, construction and operation.
- (2) Stocks and bonds.
- (3) Revenues and expenses.
- (4) Original book cost.
- (5) Reproduction value.
- (6) Present value.

1. *Organization, construction and operation.*

Sacramento Valley and Eastern Railway Company was incorporated under the laws of California on November 8, 1906. The incorporation was effected by stockholders of the Bully Hill Copper Mining and Smelting Company for the purpose of furnishing a rail outlet between the copper company's plant at Winthrop, in Shasta County, and some point on the main line operated by the Southern Pacific Company in the same county.

The surveys for the line were begun in October, 1906. The final location was completed about March 1, 1907, and the road was opened to traffic in April, 1908. The work was done by force account by the owning company, the Bully Hill Copper Mining and Smelting Company.

The road has the following mileage:

| | |
|-----------------------------------|-------------|
| Main line—Pitt to Bully Hill----- | 14.83 miles |
| Sidings and other tracks----- | 1.65 miles |
| Total ----- | 16.48 miles |

The western terminus of the line is Pitt, a station on the main line operated by the Southern Pacific Company, located on the west bank of the Sacramento River, near the mouth of the Pitt River. Crossing the Sacramento River at Pitt the road follows the canyons of the Pitt River, Squaw Creek and Towne Creek in a general easterly, north-easterly and northerly direction to the Bully Hill Copper Mining and Smelting Company's plant at Winthrop. The country is mountainous, with abrupt slopes and narrow valleys. No farming is done in this territory. There is a small iron smelter at Haroult, and a copper mine at Copper City, the ores from which are shipped to the smelter at Winthrop. The United States Government maintains a small fish hatchery on the McCloud River, and receives and consigns freight from

and to the railroad at a blind siding near the mouth of the stream. Pitt has no inhabitants, and the total population along the line of this company's railway at the present time is probably not to exceed 200. As hereinbefore stated, the railway was constructed for the purpose of furnishing access to the Bully Hill Copper Mining and Smelting Company's plant at Winthrop, and is dependent almost entirely on the operation of that plant.

During the last two years the smelter at Winthrop has been closed. The company at present operates one mixed train, making one round-trip weekly, and a twenty-five horsepower, twelve-passenger motor car, making one round-trip daily, principally for transporting mail.

2. *Stocks and bonds.*

The railway company was incorporated with a total authorized capital stock of \$300,000.00, divided into 3,000 shares of the par value of \$100.00 each. On June 7, 1907, the capital stock was increased from 3,000 to 5,000 shares, of which all except five shares for the directors were issued to the Bully Hill Copper Mining and Smelting Company, in compliance with a contract entered into between the railway company and the copper company, by the terms of which the company agreed in return for the capital stock to construct the railway and equip the same with sufficient motive power and cars to handle the copper company's products for a period of six months after the property should have been placed in operation. The railway company agreed to maintain and operate the property and to transport the copper company's products at fair and reasonable rates.

On June 30, 1909, the directors authorized the payment of a dividend of 9 per cent, amounting to \$45,000.00, and on December 31, 1910, a dividend of 10 per cent was paid, amounting to \$50,000.00. Since December 31, 1910, no further dividends have been paid.

No bonds have ever been issued.

3. *Revenues and expenses.*

During the first two years or so of operation, while the copper company's smelter was in operation at Winthrop, the railway made very satisfactory net profits. From April 8, 1908, on which day operation commenced, to June 30, 1908, the total net earnings were \$18,545.43. For the year ending June 30, 1909, the net earnings were \$67,514.27, and for the next fiscal year the net earnings were \$61,084.65. During the fiscal years ending June 30, 1911, and June 30, 1912, respectively, the railway reports a net operating loss of \$5,824.52 and \$11,928.19, respectively.

The revenues and expenses of the railway company for the year

ending June 30, 1912, appear in the annual report of that company on file with this Commission as follows:

| | |
|--|-----------------|
| Operating revenues ----- | \$10,002 06 |
| Operating expenses ----- | 19,700 79 |
| Net operating deficit ----- | \$9,608 73 |
| Taxes accrued ----- | \$2,319 46 |
| Adjustment entry December 31, 1911 ----- | 1,937 00 |
| | <u>4,256 46</u> |
| Operating loss ----- | \$13,865 19 |
| Net corporate loss ----- | \$13,865 19 |

4. Original book cost.

The total original book cost, as reported by the railway company, is \$564,085.18, being an average of \$38,037.00 for each mile of main line track. The original book cost as reported by this Commission's engineering department is \$549,007.17, or an average of \$37,020.00 per mile of main line track. The difference between these two figures, amounting to \$15,078.01, is due to certain errors in the railway company's books, as follows:

| | Credit | Debit |
|--|------------|-----------------|
| Steel bridges—error in footing----- | \$1,000 00 | |
| Rails, fastenings and switches—error in transferring from cost records----- | | \$6,272 07 |
| Passenger cars—error in footing----- | 10 00 | |
| Taxes—error in crediting four years' taxes instead of one year----- | | 7,452 22 |
| Freight train cars—error in stating cost----- | | 1 08 |
| Work equipment—duplication of entry for motor car----- | | 2,362 64 |
| Totals ----- | \$1,010 00 | \$16,088 01 |
| | | <u>1,010 00</u> |
| Net debit ----- | | \$15,078 01 |

The railway company accepted this corrected total presented by the Commission's engineering department.

I shall not find on the reasonableness of the original book cost, but shall confine the finding to the expenditures as actually shown on the railway company's books. The original cost was enhanced by the fact that construction was carried on under peculiarly difficult conditions. It was necessary to ferry the locating parties and their instruments and supplies and a portion of the grading forces, with supplies, from Pitt across the Sacramento River to its eastern shore at a season of the year when the river was often a raging torrent. If the bridge which was ultimately constructed across the river had been constructed at a favorable season and before any construction was done on the east side of the river, the cost of construction would have been diminished. It also appears that the location and construction were, to a considerable

extent, done during the winter time when the ground was largely covered with snow and during a period of heavy rains. There is no doubt that the cost of construction was also increased by virtue of this fact. These and other facts account for the difference between the original book cost and the estimate of reproduction value hereinafter set forth.

I find that the "original book cost," as hereinbefore defined, of the operative property of Sacramento Valley and Eastern Railway Company, as of June 30, 1912, is the sum of \$549,007.17.

5. *Reproduction value.*

The railway company entered its objections to the engineering department's estimate with reference to certain items under the head of "reproduction value." I shall now consider these objections seriatim:

(1) *Grading.*

The Commission's engineering department originally estimated the cost of reproducing grading at \$125,591.89. Thereafter, in the supplemental report, filed on August 25, 1913, this sum was increased to \$163,371.48. The increase represents an added item for the construction of roads and trails. The railway company contended at the hearing that the revised estimate was still too low. Chief Engineer W. C. Earle testified exhaustively concerning the unit prices which he had used in his estimate of reproducing the grading, and I am satisfied from this testimony that the amount which has been allowed by the engineering department in its revised estimate is fair and reasonable. I shall accordingly allow no increase in this item.

(2) *Slides.*

It appeared at the hearing that the amount of yardage returned to this Commission by the railway company in its inventory was the amount ascertained from the original cross sections, and that no yardage had been added for slides. The witnesses for the railway company testified that by reason of the heavy rains there had been a large number of slides, both before and after the completion of construction. No accurate record was kept of the amount of yardage which it was necessary to remove from the roadbed because of these slides. In so far as these slides occurred subsequent to the completion of the railway, they should be charged to operation and not to construction. In so far as they occurred before construction was completed they are a proper charge. In the absence of figures showing the exact amount of yardage removed by reason of these slides it is difficult to estimate the amount which should be added under the head of "reproduction value." One of the witnesses for the railway company testified that, in his opinion,

\$18,220.00 should be added for this item under the head of "reproduction value." I have asked Mr. Earle to prepare an estimate of the amount to be added under this item. He has prepared an estimate based on an additional 20 per cent of earth in excavation, 10 per cent of loose rock in excavation and 5 per cent of solid rock in excavation, and by applying to the yardage so secured in each case the unit prices which he allowed for these respective kinds of materials, he reaches a total amount to be added under this head of \$6,265.68. Bearing in mind the fact that under the head of grading, the engineering department had already added an item of 5 per cent for contingencies, I am of the opinion that the amount so estimated by Mr. Earle is a liberal one, and that this amount should be added to the engineering department's revised final summary sheet. I find that this is the gross amount which should be added and consequently no additions will be made thereto for contingencies, engineering, law expenses and interest and commissions.

(3) *Steel bridges and trusses.*

The engineer testifying for the railway company was of the opinion that some \$3,888.00 should be added to the estimate of "reproduction value" of this item. This opinion was based on general inquiries concerning the cost of reproducing second-hand steel bridges, such as those which were purchased second-hand from the Oregon Railroad and Navigation Company, and erected by the railway company across the Sacramento River and the McCloud River. There was no definite evidence on this point, and I am satisfied to permit the engineering department's estimate to stand as presented.

(4) *Pile and frame trestles.*

In its estimate of "reproduction value" of this item, the engineering department assumed that California timbers would be used and made its return on that basis. It appeared at the hearing that Oregon pine had been used, and that it would cost more to reproduce Oregon pine than to reproduce California pine. It also appeared that there is much reason for holding that the Oregon pine is more satisfactory than California pine would be. The engineering department has accordingly revised its estimate for this item and has added to its estimate the sum of \$2,812.28 for the cost of reproducing the timbers, together with contingencies, making a total for this item, including contingencies, of \$20,483.15 for "reproduction value." I find that the additional amount recommended by the engineering department should be added to the department's original estimate for "reproduction value" of this item.

(5) *Culverts.*

A question was presented at the hearing with reference to the accuracy of the engineering department's estimate of the "reproduc-

tion value" of culverts. The railway company's witnesses pointed out an error in computation under this item. The engineering department has gone over this item again and has reached the conclusion that notwithstanding the error the total amount allowed is sufficient, and I concur in this conclusion.

(6) *Ties.*

The engineering department's estimate for "reproduction value" of ties was \$19,969.71. It appeared at the hearing that the unit prices established for this item were too low. The witness for the railway company contended that an amount of \$4,589.00 should be added to this item. After the hearing this Commission's engineering department made careful inquiries into this item, and has reached the conclusion that an amount of \$9,050.75 should be added for increased cost of ties and contingencies, making a total estimated "reproduction value" of this item of \$29,120.46. I find that this addition should be made.

(7) *Ballast.*

The engineering department's estimate for "reproduction value" of this item is \$11,678.62. The department estimated that 50 per cent of the ballast was procured from cuts at cost of handling only, and allowed an average cost for all the ballast of 62½ cents per cubic yard. The witnesses for the railway company contended that very little ballast could be secured from cuts, and testified that a considerable portion of the ballast which was used consisted of broken slag which was secured from the mine. The witnesses testified that most of the ballast actually used was transported from the mine or from different portions of the line of railway. I am convinced from the testimony of Mr. Earle, based on unit prices covering a large number of cases of railway construction in this State and elsewhere, that while the method used by the engineering department in estimating the unit price for ballast may be open to question, the result secured is at least liberal to the railway company. I shall accordingly allow this item to stand as estimated by the engineering department.

(8) *Engineering.*

One of the most difficult questions in this valuation is the correct amount to be allowed under the head of "reproduction value" for engineering. The railway company reported an original book cost for this item amounting to \$40,175.72, and estimated the same amount for both "reproduction value" and "present value." The Commission's engineering department, while accepting these figures for "original book cost," allowed only \$16,050.49 in its estimate for both "reproduction value" and "present value."

There seems no reasonable ground to doubt that the engineering actually cost the sum of \$40,175.72, as reported by the railway company. It appears that the railway company employed three engineering parties to survey its proposed line of railway, the total length whereof is somewhat less than 15 miles, and that two or three parties were in the field the entire time, even during construction. Mr. F. J. Dearborn, who constructed this railway, testified that from two to three engineering parties were in the field during the entire period between the commencement of location and the final completion of the railway. On the one hand, it appears that for several causes the engineering expenses which would be incurred in reproducing this railway would be considerably heavier than would be the case in average railway construction. In the first place, the railway is constructed through mountainous territory, along the canyons of different streams throughout almost its entire extent. The location of such a line of railway is more than usually difficult. Again, an attempt was made to avoid the expense of heavy tunneling, and constant resurveys were made for the purpose of skirting the face of the canyons instead of being compelled to tunnel. While the expense of engineering was doubtlessly increased by this course of procedure, the entire cost of constructing the railway was doubtlessly considerably less than it would have been if these means had not been used to eliminate tunnels and other heavy construction.

On the other hand, there is considerable evidence to show that in reproducing the railway the engineering expenses could be considerably reduced. As hereinbefore pointed out, the work of location was done largely during the most unfavorable time of the year, while the snows were lying on the ground, and while the rains were heaviest. It has also been pointed out that considerable money could have been saved in engineering as well as other items if the bridge had been constructed across the Sacramento River at an earlier period in the construction. It is also difficult to understand why it would be necessary to employ during the entire period of construction as many engineering parties as seem to have been employed throughout the entire period of this railway construction.

It is difficult to reach a conclusion as to the proper amount which should be allowed for this item under the head of "reproduction value." After weighing carefully the items which would go to make the engineering on this railway more expensive than would ordinarily be the case, and also considering the conditions which resulted in making the expenditures for this item larger than they would reasonably be if the railway were to be reconstructed as of June 30, 1912, I have reached the conclusion that the item allowed by the engineering department

should be increased from \$18,212.99 to \$29,000.00. Comparisons with the cost of engineering on other lines of railway, both in California and Oregon, under circumstances similar to those which obtain on this line of railway, as presented by Mr. Earle in considerable detail at the hearing, would seem to show that this estimate would be fair and liberal.

The foregoing items are the only ones which were attacked by the railway company at the hearing.

After a careful consideration of all the evidence in this case bearing on the matter of "reproduction value" I find the "reproduction value," as that term has hereinbefore been defined, of the operative property of the Sacramento Valley and Eastern Railway Company, as of June 30, 1912, to be the sum of \$475,002.04.

1. *Present value.*

No testimony was presented at the hearing with reference to the "present value" of this line of railway. The changes which have been made in the engineering department's estimate of "reproduction value" make it necessary, however, to make corresponding changes in the department's estimate of "present value." These changes have been made, as is indicated on "Exhibit C."

I find that the "present value," as that term has hereinbefore been defined, of the operative property of the Sacramento Valley and Eastern Railway Company, as of June 30, 1912, is the sum of \$424,678.07.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of September, 1913.

"EXHIBIT A."

Name of owner, Sacramento Valley and Eastern Railroad Company; operating company, same; from Pitt to Bully Hill; miles main line track, 14.83; miles yard tracks, etc., 1.65; total, 16.48.
Valuation as of June 30, 1912; M. M. Cooke, field inspector and office compiler.
Compiled September 16, 1913.

| Class No. | Form No. | I. C. C. Acct. No. | Classes. | Original book cost. | Reproduction value. | Cond. per cent. | Present value. |
|---|----------|--------------------|--|---------------------|---------------------|-----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds..... | \$1,560 00 | \$1,612 75 | ----- | \$1,612 75 |
| 2 | 2 | 3 | Real estate..... | 1,000 00 | 1,000 00 | ----- | 1,000 00 |
| 3 | 3 | 4 | Grading..... | 244,165 16 | 235,324 00 | 125 | 235,324 00 |
| 4 | 4 | 5 | Tunnels..... | ----- | ----- | ----- | ----- |
| 5 | 5 | 6 | Steel bridges and trusses..... | 50,292 58 | 53,080 00 | 75 | 39,810 00 |
| 6 | 6 | 6 | Pile and frame trestles..... | 27,629 06 | 17,500 00 | 75 | 13,025 00 |
| 7 | 7 | 6 | Culverts..... | ----- | 7,250 00 | 75 | 5,440 00 |
| 8 | 8 | 7 | Ties..... | 29,798 05 | 28,512 00 | 50 | 14,256 00 |
| 9 | 9 | 8 | Rails..... | 78,103 04 | 78,103 04 | 90 | 70,292 74 |
| 10 | 10 | 9 | Frogs and switches..... | 2,485 33 | 2,485 33 | 90 | 2,236 98 |
| 11 | 11 | 10 | Track fastenings and other material..... | 8,647 15 | 8,647 15 | ----- | 7,772 43 |
| 12 | 12 | 11 | Ballast..... | ----- | ----- | ----- | ----- |
| 13 | 13 | 12 | Tracklaying and surfacing..... | 38,670 37 | 38,670 37 | 90 | 34,808 00 |
| 14 | 14 | 13 | Roadway tools..... | ----- | ----- | ----- | ----- |
| 15 | 15 | 14 | Fencing right of way..... | ----- | ----- | ----- | ----- |
| 16 | 16 | 15 | Crossings and signs..... | ----- | ----- | ----- | ----- |
| 17 | 17 | 16 | Interlocking plants..... | ----- | ----- | ----- | ----- |
| 18 | 18 | 16 | Signal apparatus..... | ----- | ----- | ----- | ----- |
| 19 | 19 | 17 | Telegraph and telephone lines..... | 3,955 28 | 3,955 28 | 75 | 2,966 46 |
| 20 | 20 | 18 | Station buildings and fixtures..... | ----- | ----- | ----- | ----- |
| 21 | 21 | 18 | Platforms, walks, paving and curb..... | ----- | ----- | ----- | ----- |
| 22 | 22 | 19 | General office buildings and fixtures..... | ----- | ----- | ----- | ----- |
| 23 | 23 | 20 | Shop buildings and engine houses..... | ----- | ----- | ----- | ----- |
| 24 | 24 | 20 | Transfer and turntables, roller pits, etc..... | ----- | ----- | ----- | ----- |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures..... | ----- | ----- | ----- | ----- |
| 26 | 26 | 21 | Shop machinery and tools..... | ----- | ----- | ----- | ----- |
| 27 | 27 | 22 | Water stations..... | 647 78 | 647 78 | 75 | 485 84 |
| 28 | 28 | 23 | Fuel stations..... | ----- | ----- | ----- | ----- |
| 29 | 29 | 24 | Grain elevators..... | ----- | ----- | ----- | ----- |
| 30 | 30 | 25 | Storage warehouses..... | ----- | ----- | ----- | ----- |
| 31 | 31 | 26 | Dock and wharf property..... | ----- | ----- | ----- | ----- |
| 32 | 32 | 27 | Electric light plants..... | ----- | ----- | ----- | ----- |
| 33 | 33 | 28 | Electric power plants..... | ----- | ----- | ----- | ----- |
| 34 | 34 | 29 | Electric power transmission..... | ----- | ----- | ----- | ----- |
| 35 | 35 | 30 | Gas producing plants..... | ----- | ----- | ----- | ----- |
| 36 | 36 | 31 | Miscellaneous structures..... | ----- | ----- | ----- | ----- |
| Total classes 1 to 36, inclusive..... | | | | \$486,894 00 | \$476,817 90 | ----- | \$429,045 20 |
| 37 | --- | 1 | Engineering -- per cent, 1 to 36, inclusive..... | 40,175 72 | 40,175 72 | ----- | 40,175 72 |
| 38 | 37 | 32 | Transportation of men and material..... | ----- | ----- | ----- | ----- |
| 39 | 38 | 33 | Rent of equipment..... | ----- | ----- | ----- | ----- |
| 40 | 38 | 34 | Repairs of equipment..... | ----- | ----- | ----- | ----- |
| 41 | --- | 35 | Earning and operating expenses during construction..... | ----- | ----- | ----- | ----- |
| 42 | --- | 35 1/2 | Injuries to persons..... | ----- | ----- | ----- | ----- |
| 43 | --- | 36 | Cost of road purchased..... | ----- | ----- | ----- | ----- |
| Total classes 1 to 43, inclusive..... | | | | \$527,069 72 | \$516,983 62 | ----- | \$469,220 92 |
| 44 | 39 | 37 | Steam locomotives..... | 17,966 49 | 17,966 49 | ----- | 12,791 00 |
| 45 | --- | 38 | Electric locomotives..... | ----- | ----- | ----- | ----- |
| 46 | 40 | 39 | Passenger train cars..... | 3,243 86 | 3,243 86 | ----- | 2,439 78 |
| 47 | 41 | 40 | Freight train cars..... | 2,576 08 | 2,576 08 | ----- | 1,933 00 |
| 48 | 42 | 41 | Work equipment..... | 2,827 57 | 2,827 57 | ----- | 1,424 32 |
| 49 | 43 | 42 | Floating equipment..... | ----- | ----- | ----- | ----- |
| Total classes 1 to 49, inclusive..... | | | | \$553,683 72 | \$543,607 62 | ----- | \$487,809 02 |
| 50 | --- | 43 | Law expenses -- per cent, classes 1 to 36, inclusive..... | 2,171 75 | 2,171 75 | ----- | 2,171 75 |
| 51 | 44 | 44 | Stationery and printing..... | ----- | ----- | ----- | ----- |
| 52 | 44 | 45 | Insurance..... | ----- | ----- | ----- | ----- |
| 53 | 45 | 46 | Taxes..... | 8,229 71 | 8,229 71 | ----- | 8,229 71 |
| Total classes 1 to 53, inclusive..... | | | | \$561,865 18 | \$554,009 08 | ----- | \$496,210 48 |
| 54 | --- | 47 | Interest and commission -- per cent, classes 1 to 53, inclusive..... | ----- | ----- | ----- | ----- |
| 55 | 45 | 48 | Other expenditures..... | ----- | ----- | ----- | ----- |
| 56 | --- | --- | Contingencies -- per cent, classes 1 to 53, inclusive..... | ----- | ----- | ----- | ----- |
| 57 | 46 | --- | Stores and supplies on hand for use in California..... | ----- | ----- | ----- | ----- |
| Grand total..... | | | | \$561,865 18 | \$554,009 08 | ----- | \$496,210 48 |
| Average per mile for main line track..... | | | | 38,037 00 | 37,357 00 | ----- | 33,568 00 |

"EXHIBIT B."

Name of owner, Sacramento Valley and Eastern Railroad Company; operating company, same; from Pitt to Bully Hill; miles main line track, 14.83; miles yard tracks, etc., 1.65; total, 16.48.
Valuation as of June 30, 1912; M. M. Cooke, field inspector and office compiler.
Compiled September 16, 1913.

| Class No. | Form No. | I. C. C. Act No. | Classes. | Original book cost. | Reproduction value. | Cond. per cent | Present value. |
|-----------|----------|------------------|--|---------------------|---------------------|----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds..... | \$1,500 00 | \$3,233 88 | 100 | \$3,233 88 |
| 2 | 2 | 3 | Real estate..... | 1,000 00 | 1,155 00 | 100 | 1,155 00 |
| 3 | 3 | 4 | Grading..... | 244,165 16 | 163,371 48 | 100 | 171,995 61 |
| 4 | 4 | 5 | Tunnels..... | | | | |
| 5 | 5 | 6 | Steel bridges and trusses..... | 51,202 58 | 27,005 63 | 82 | 22,554 31 |
| 6 | 6 | 6 | Pile and frame trestles..... | 22,984 70 | 17,670 87 | 60 | 10,602 52 |
| 7 | 7 | 6 | Culverts..... | 4,044 36 | 3,145 53 | 38 | 1,195 30 |
| 8 | 8 | 7 | Ties..... | 29,738 05 | 19,969 71 | 50 | 9,984 85 |
| 9 | 9 | 8 | Rails..... | 70,528 05 | 78,215 70 | 86 | 67,233 88 |
| 10 | 10 | 9 | Frogs and switches..... | 2,480 00 | 3,094 64 | 72 | 2,228 14 |
| 11 | 11 | 10 | Track fastenings and other material..... | 9,355 60 | 10,658 93 | 75 | 7,904 30 |
| 12 | 12 | 11 | Ballast..... | 16,241 56 | 11,658 62 | 100 | 11,678 62 |
| 13 | 13 | 12 | Tracklaying and surfacing..... | 22,428 81 | 20,897 10 | 80 | 16,717 68 |
| 14 | 14 | 13 | Roadway tools..... | 464 73 | 422 10 | 50 | 211 05 |
| 15 | 15 | 14 | Fencing right of way..... | | | | |
| 16 | 16 | 15 | Crossings and signs..... | | | | |
| 17 | 17 | 16 | Interlocking plants..... | | | | |
| 18 | 18 | 16 | Signal apparatus..... | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines..... | 3,955 28 | 6,392 44 | 50 | 3,206 22 |
| 20 | 20 | 18 | Station buildings and fixtures..... | | | | |
| 21 | 21 | 18 | Platforms, walks, paving and curb..... | | | | |
| 22 | 22 | 19 | General office buildings and fixtures..... | | | | |
| 23 | 23 | 20 | Shop buildings and engine houses..... | | | | |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc..... | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures..... | | | | |
| 26 | 26 | 21 | Shop machinery and tools..... | | | | |
| 27 | 27 | 22 | Water stations..... | 647 78 | 904 09 | 59 | 533 37 |
| 28 | 28 | 23 | Fuel stations..... | | | | |
| 29 | 29 | 24 | Grain elevators..... | | | | |
| 30 | 30 | 25 | Storage warehouses..... | | | | |
| 31 | 31 | 26 | Dock and wharf property..... | | | | |
| 32 | 32 | 27 | Electric light plants..... | | | | |
| 33 | 33 | 28 | Electric power plants..... | | | | |
| 34 | 34 | 29 | Electric power transmission..... | | | | |
| 35 | 35 | 30 | Gas producing plants..... | | | | |
| 36 | 36 | 31 | Miscellaneous structures..... | | | | |
| 37 | --- | 1 | Total classes 1 to 36, inclusive..... | \$482,066 86 | \$308,648 72 | | \$330,674 83 |
| 38 | 37 | 32 | Engineering 5 per cent, 3 to 36, inclusive, R. V..... | 40,175 72 | 18,212 99 | 100 | 18,212 99 |
| 39 | 38 | 33 | Transportation of men and material..... | | | | |
| 40 | 38 | 34 | Rent of equipment..... | | | | |
| 41 | --- | 35 | Repairs of equipment..... | | | | |
| 42 | --- | 35 | Earning and operating expenses during construction..... | | | | |
| 43 | --- | 35 | Injuries to persons..... | | | | |
| 43 | --- | 36 | Cost of road purchased..... | | | | |
| 44 | 39 | 37 | Total classes 1 to 43, inclusive..... | \$522,262 58 | \$326,861 71 | | \$348,887 82 |
| 45 | --- | 38 | Steam locomotives..... | 17,935 49 | 16,221 13 | 69 | 11,248 37 |
| 46 | 40 | 39 | Electric locomotives..... | | | | |
| 47 | 41 | 40 | Passenger train cars..... | 3,253 86 | 3,286 40 | 68 | 2,250 55 |
| 48 | 42 | 41 | Freight train cars..... | 2,575 00 | 2,600 75 | 75 | 1,950 56 |
| 49 | 43 | 42 | Work equipment..... | | | | |
| 49 | 43 | 42 | Floating equipment..... | | | | |
| 50 | --- | 43 | Total classes 1 to 49, inclusive..... | \$546,057 93 | \$408,069 90 | | \$364,346 30 |
| 51 | 44 | 44 | Law expenses, 1 per cent, classes 3 to 36, inclusive of R. V..... | 2,171 75 | 3,642 60 | 100 | 3,642 60 |
| 52 | 44 | 45 | Stationery and printing..... | | | | |
| 53 | 45 | 46 | Insurance..... | | | | |
| 53 | 45 | 46 | Taxes..... | 777 49 | | | |
| 54 | --- | 47 | Total classes 1 to 53, inclusive..... | \$549,007 17 | \$412,612 59 | | \$367,988 90 |
| 55 | 45 | 48 | Interest and commission 3 per cent, classes 3 to 53, inclusive of R. V..... | | 12,246 71 | 100 | 12,246 51 |
| 56 | --- | 48 | Other expenditures, 2 of 1 per cent, classes 3 to 53, inclusive of R. V..... | | 2,041 12 | 100 | 2,041 12 |
| 57 | 46 | --- | Contingencies — per cent, classes 1 to 53, inclusive..... | | | | |
| 57 | 46 | --- | Stores and supplies on hand for use in California..... | | 18,165 83 | 100 | 18,165 83 |
| | | | Grand total..... | \$549,007 17 | \$445,066 25 | 90 | \$400,442 36 |
| | | | Average per mile for main line track..... | 37,020 00 | 30,011 21 | | 27,002 19 |

"EXHIBIT C."

Name of owner, Sacramento Valley and Eastern Railroad Company; operating company, same; from Pitt to Bully Hill; miles main line track, 14.83; miles yard tracks, etc., 1.65; total, 16.48. Valuation as of June 30, 1912; M. M. Cooke, field inspector and office compiler. Compiled September 16, 1913.

| Class No. | Form No. | I. C. C. Act. No. | Classes. | Original book cost. | Reproduction value. | Cond. per cent. | Present value. |
|-----------|----------|-------------------|---|---------------------|---------------------|-----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds | \$1,590 00 | \$3,233 88 | 100 | \$3,233 88 |
| 2 | 2 | 3 | Real estate | 1,000 00 | 1,155 00 | 100 | 1,155 00 |
| 3 | 3 | 4 | Grading | 244,165 16 | 163,371 48 | 106 | 171,995 61 |
| 4 | 4 | 5 | Tunnels | | | | |
| 5 | 5 | 6 | Steel bridges and trusses | 51,202 58 | 27,605 63 | 82 | 22,554 31 |
| 6 | 6 | 6 | Pile and frame trestles | 22,984 70 | 20,483 15 | 90 | 12,289 89 |
| 7 | 7 | 6 | Culverts | 4,644 38 | 3,145 53 | 38 | 1,195 30 |
| 8 | 8 | 7 | Ties | 29,798 05 | 29,120 46 | 50 | 14,560 23 |
| 9 | 9 | 8 | Rails | 70,528 05 | 78,248 70 | 86 | 67,293 88 |
| 10 | 10 | 9 | Frogs and switches | 2,480 00 | 3,004 64 | 72 | 2,228 14 |
| 11 | 11 | 10 | Track fastenings and other material | 9,955 60 | 10,658 93 | 75 | 7,964 20 |
| 12 | 12 | 11 | Ballast | 16,241 56 | 11,678 62 | 100 | 11,678 62 |
| 13 | 13 | 12 | Tracklaying and surfacing | 22,428 81 | 20,897 10 | 80 | 16,717 68 |
| 14 | 14 | 13 | Roadway tools | 464 93 | 422 10 | 50 | 211 05 |
| 15 | 15 | 14 | Fencing right of way | | | | |
| 16 | 16 | 15 | Crossings and signs | | | | |
| 17 | 17 | 16 | Interlocking plants | | | | |
| 18 | 18 | 16 | Signal apparatus | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines | 3,955 28 | 6,592 44 | 50 | 3,296 22 |
| 20 | 20 | 18 | Station buildings and fixtures | | | | |
| 21 | 21 | 18 | Platforms, walks, paving and curb | | | | |
| 22 | 22 | 19 | General office buildings and fixtures | | | | |
| 23 | 23 | 20 | Shop buildings and engine houses | | | | |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc. | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures | | | | |
| 26 | 26 | 21 | Shop machinery and tools | | | | |
| 27 | 27 | 22 | Water stations | 647 78 | 904 09 | 59 | 533 57 |
| 28 | 28 | 23 | Fuel stations | | | | |
| 29 | 29 | 24 | Grain elevators | | | | |
| 30 | 30 | 25 | Storage warehouses | | | | |
| 31 | 31 | 26 | Dock and wharf property | | | | |
| 32 | 32 | 27 | Electric light plants | | | | |
| 33 | 33 | 28 | Electric power plants | | | | |
| 34 | 34 | 29 | Electric power transmission | | | | |
| 35 | 35 | 30 | Gas producing plants | | | | |
| 36 | 36 | 31 | Miscellaneous structures | | | | |
| | | | Total classes 1 to 36, inclusive | \$482,086 86 | \$380,611 75 | 88 | \$336,937 58 |
| 37 | --- | 1 | Engineering | 40,175 72 | 29,000 00 | 100 | 29,000 00 |
| 38 | 37 | 32 | Transportation of men and material | | | | |
| 39 | 38 | 33 | Rent of equipment | | | | |
| 40 | 38 | 34 | Repairs of equipment | | | | |
| 41 | --- | 35 | Earning and operating expenses during construction | | | | |
| 42 | --- | 35 1/2 | Injuries to persons | | | | |
| 43 | --- | 36 | Cost of road purchased | | | | |
| | | | Total classes 1 to 43, inclusive | \$522,262 58 | \$400,611 75 | 89 | \$365,937 58 |
| 44 | 39 | 37 | Steam locomotives | 17,966 49 | 16,221 13 | 69 | 11,248 37 |
| 45 | --- | 38 | Electric locomotives | | | | |
| 46 | 40 | 39 | Passenger train cars | 3,253 86 | 3,286 40 | 68 | 2,259 55 |
| 47 | 41 | 40 | Freight train cars | 2,575 00 | 2,600 75 | 75 | 1,950 56 |
| 48 | 42 | 41 | Work equipment | | | | |
| 49 | 43 | 42 | Floating equipment | | | | |
| | | | Total classes 1 to 49, inclusive | \$546,057 93 | \$431,720 03 | 88 | \$381,396 06 |
| 50 | --- | 43 | Law expenses 1 per cent, classes 3 to 36, inclusive R. V. | 2,171 75 | 8,762 23 | 100 | 3,762 23 |
| 51 | 44 | 44 | Stationery and printing | | | | |
| 52 | 44 | 45 | Insurance | | | | |
| 53 | 45 | 46 | Taxes | 777 49 | | | |
| | | | Total classes 1 to 53, inclusive | \$549,007 17 | \$435,482 26 | 88 | \$385,158 29 |
| 54 | --- | 47 | Interest and commission, 3 per cent, classes 3 to 53, inclusive R. V. | | 12,932 80 | 100 | 12,932 80 |
| 55 | 45 | 48 | Other expenditures, 1/2 of 1 per cent, classes 3 to 53, inclusive R. V. | | 2,155 47 | 100 | 2,155 47 |
| 56 | --- | --- | Slides | | 6,265 68 | 100 | 6,265 68 |
| 57 | 46 | --- | Stores and supplies on hand for use in California | | 18,165 83 | 100 | 18,165 83 |
| | | | Grand total | \$549,007 17 | \$475,002 04 | 90 | \$424,678 07 |
| | | | Average per mile for main line track | 37,020 00 | 32,029 81 | 90 | 28,686 42 |

DECISION No. 979.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA UTILITIES COMPANY FOR PERMISSION TO BORROW FIFTY THOUSAND DOLLARS AND ISSUE NOTES THEREFOR.

Application No. 762.

Decided October 1, 1913.

M. W. Conkling, for Applicant.

REPORT OF THE COMMISSION.

OPINION AND ORDER.

LOVELAND, Commissioner.

In this application, the Southern California Utilities Company, a corporation organized under the laws of the State of California, asks permission to borrow a sum not exceeding fifty thousand dollars, payable on or before one year, with interest at the rate of eight per cent per annum.

Section 52 (b) of the Public Utilities Act provides in part as follows:

“A public utility may issue notes, for proper purposes and not in violation of any provision of this act or any other act, payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the Commission.”

It is apparent that, under this provision of the Public Utilities Act, the consent of the Commission is not necessary in this case, and the application is hereby dismissed.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of October, 1913.

DECISION No. 980.

IN THE MATTER OF THE APPLICATION OF J. W. BLOOM TO SELL AND CITY AND SUBURBAN INVESTMENT COMPANY TO PURCHASE THE WATER DISTRIBUTING SYSTEM SERVING RESIDENTS IN OCEAN VIEW PARK AND SOME PROPERTY OWNERS IN DALY CITY, AND FOR PERMISSION TO ISSUE STOCK IN PAYMENT THEREFOR.

Application No. 680.

Decided October 1, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The applicants in the above entitled proceeding having filed their request in writing that the application be dismissed,

It is hereby ordered that said application be and the same is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 1st day of October, 1913.

DECISION No. 981.

IN THE MATTER OF THE APPLICATION OF AMADOR ELECTRIC LIGHT AND POWER COMPANY FOR PERMISSION TO SELL TWELVE THOUSAND DOLLARS IN BONDS OF THIS CORPORATION THAT ARE NOW IN THE TREASURY OF THE COMPANY UNSOLD, AND PERMISSION TO ISSUE THREE THOUSAND SHARES OF STOCK OF PAR VALUE THREE THOUSAND DOLLARS TO THE ESTATE OF MARY A. DEACON.

Application No. 731.

Decided October 2, 1913.

Applicant permitted to issue \$12,000.00 face value of bonds, proceeds to be used partly to discharge present outstanding indebtedness and the balance to refund treasury for money previously expended for additions to plant. Applicant also authorized to issue 3,000 shares of capital stock to the estate of Mary A. Deacon.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Amador Electric Light and Power Company for an order authorizing the issue of \$12,000.00 face value of bonds, and \$3,000.00 par value of capital stock.

Applicant is a California corporation engaged in the business of distributing electric current for light and power in the county of Amador, California. By a trust deed heretofore executed, provision was made for the issuance of \$90,000.00 face value of bonds, and of this amount \$48,000.00 face value of bonds has heretofore been issued.

During the years 1911, 1912 and 1913, applicant expended for additions and betterments to plant the total of \$21,048.59. Of this amount it borrowed from the Bank of Amador County \$5,000.00, and from C. R. Downs \$2,000.00. The balance of the expenditures above noted was made out of income. The amounts owing the Bank of Amador and Mr. C. R. Downs are now due and it is proposed to pay off this indebtedness with the proceeds of the bonds herein asked to be authorized and apply the remainder of such proceeds to reimbursing the treasury for money spent out of income.

No dividends have ever been paid by applicant on its capital stock, and officers of this company testified that immediately the treasury is reimbursed in the sum indicated the money will be again invested in betterments and additions to plant.

The testimony shows that the payment of the moneys set out in the application were proper capital expenditures and as the total value of the plant appears to be a sum considerably in excess of the total bonded indebtedness which would result if this application is granted, I think the issuance and sale of these bonds is justified.

Prior to March 23, 1912, when the Public Utilities Act went into effect, applicant issued 45,000 shares par value of its capital stock, and thereafter in order to make its outstanding capital stock equal to the amount of its proposed bond issue, the remaining 45,000 shares of its capital stock were distributed pro rata among its stockholders. All of this last mentioned stock was issued prior to March 23d, except 3,000 shares which was to go to Mary A. Deacon, but because of her death delivery was delayed until after the going into effect of the Public Utilities Act, when the consent of this Commission became necessary to the issuance of this stock.

In view of the fact that the Commission is powerless to readjust this situation by reaching back to a time prior to when it had power, and regaining this stock issued for little, if any consideration, to stockholders, and that the effect of denying this application would be to

work a gross injustice upon one of the stockholders, I think this Commission should give its consent in so far as it may have validity.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California for an order authorizing the issue by Amador Electric Light and Power Company of \$12,000.00 face value of bonds, and \$3,000.00 par value of stock, and a public hearing having been held, and it appearing to the Commission that the money to be secured by the issue of said bonds is necessary and reasonably required by said company for the discharge of its obligations and the reimbursement of its treasury for additions and betterments made to said company's plant out of income, and that the purposes for which the proceeds of the sale of the said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application for the issuance of such bonds and such capital stock should be granted,

It is hereby ordered by the Railroad Commission of the State of California that Amador Electric Light and Power Company is hereby authorized to issue \$12,000.00 face value of its first mortgage 20-year 6 per cent gold bonds, in denominations of \$500.00 each, and to be numbered consecutively beginning with 97, under the terms of an indenture of mortgage, dated January 1, 1910, executed by the Amador Light and Power Company to First Federal Trust Company of San Francisco; and applicant is further authorized to issue \$3,000.00 par value of its capital stock. Said bonds and said stock to be issued under the following conditions, not otherwise:

1. The bonds herein authorized shall be sold to net applicant not less than face value, and the money derived from the sale of said bonds shall be used for the following purposes only:

(a) To pay off and discharge the indebtedness now owed by applicant to Bank of Amador County, in the sum of \$5,000.00.

(b) To pay off and discharge the indebtedness now owed by applicant to C. R. Downs in the sum of \$2,000.00.

2. The balance of said proceeds shall be used to reimburse the treasury for expenditures made out of income for additions and betterments to applicant's plant in the years 1911, 1912 and 1913, such expenditures being set out in the application on file herein.

The capital stock herein authorized to be issued shall be issued to the estate of Mary A. Deacon.

Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be issued, and on or before the twenty-

fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or other disposition of such bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

The authority hereby given to issue such bonds and such stock shall apply only to bonds and stock issued by said company on or before the first day of March, 1914.

The payment of the minimum fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

DECISION No. 982.

IN THE MATTER OF THE APPLICATION OF THE FARMERS' WAREHOUSE COMPANY FOR AN ORDER PERMITTING IT TO SELL, AND THE HUNTINGTON BEACH WAREHOUSE COMPANY, THE SAWTELLE WAREHOUSE COMPANY AND THE HUENEME WHARF AND WAREHOUSE COMPANY TO PURCHASE CERTAIN OF THE PROPERTY OF THE FARMERS' WAREHOUSE COMPANY, AND FOR AN ORDER PERMITTING THE HUNTINGTON BEACH WAREHOUSE COMPANY, THE SAWTELLE WAREHOUSE COMPANY AND THE HUENEME WHARF AND WAREHOUSE COMPANY TO ISSUE STOCK.

Application No. 737.

Decided October 2, 1913.

Held. That the Farmers' Warehouse Company be authorized to sell certain warehouse property and the Huntington Beach and Sawtelle warehouse companies to issue \$18,000.00 par value of stock each, said stock to be used in acquiring the above mentioned property, also to issue 70 shares of stock each, of the par value of \$100.00 per share, said 70 shares of stock to be devoted to other than public utility purposes.

Held. That the Farmers' Warehouse Company be authorized to sell certain other warehouse property and the Huene-me Wharf and Warehouse Company to issue \$60,000.00 face value of stock and a promissory note in the sum of \$40,000.00, proceeds to be applied to the purchase of said property.

Held, That the **Hueneme Wharf and Warehouse Company** be authorized to issue 500 shares of capital stock of the face value of \$50,000.00, 250 shares for betterments and extensions to plant and 250 shares for other than public utility purposes.

George E. Farrand, for Applicant.

REPORT OF THE COMMISSION.

ESHLEMAN, Commissioner.

The Farmers' Warehouse Company, applicant herein, is engaged in a public utility and mercantile business in the counties of Los Angeles and Ventura, and heretofore filed Application No. 311, which was passed on by this Commission January 30, 1913. In the decision in Application No. 311, the difficulties of financing an enterprise partly public utility and partly not were pointed out, and it was suggested that it might be advisable for this company to reorganize its business so as to separate the public utility business from that which is not. By far the greater portion of the business of this applicant is business other than public utility, and it is now sought to organize three public utility companies to take over the public utility business of the applicant and it is desired that stock in such public utility enterprises be issued to the Farmers' Warehouse Company in payment for the property to be acquired by the three public utility companies. The testimony shows that while the new utility companies will devote themselves almost entirely to public utility business, yet there will be some business incidental to the public utility business which it will still be advantageous and probably necessary to carry on in conjunction with such public utility business which, if carried on alone, would not be subject to this Commission's jurisdiction.

I will consider the three public utilities organized separately.

I.

Huntington Beach Warehouse Company. Application is made by the Farmers' Warehouse Company to sell and by the Huntington Beach Warehouse Company to purchase all of the following described property:

All that certain real property situated in the Rancho Las Bolsas, county of Orange, State of California, described as follows, to wit:

Beginning at the quarter section corner on the east line of section twelve (12), township six (6) south, range eleven (11) west, S. B. B. M., running thence north along the east line of said section 340.00 feet; thence west 100.00 feet; thence south 50.00 feet; thence west 167.00 feet; thence south 290.00 feet; thence east 267.00 feet to the point of beginning, and being portions of lots 924 and 1024 of the W. T. Newland Tract, as shown on a map in Book 4, page 56 of Miscellaneous Maps, records of Orange County, California;

Reserving therefrom the east 30.00 feet and the south 20.00 feet for road purposes, as shown on said map of the W. T. Newland Tract;

Together with all improvements and buildings thereon, together with all of the personal property used in and about the said premises in carrying on its said business, particularly including one 30-horsepower gas engine, trucks, bean cleaner, barley rolls, scales and boiler.

For this property the purchaser desires to issue 180 shares of its capital stock at par, aggregating \$18,000.00.

The authorized capital stock of this company is \$25,000.00, divided into 250 shares of the par value of \$100.00 each.

If the application is granted to issue the shares in payment for the property, this will leave 70 shares, which the corporation asks also to issue and sell at par and use the proceeds of such shares in the carrying on of that portion of its business which is not public utility, namely, the cleaning of beans and the purchasing of farmers' produce.

II.

Sawtelle Warehouse Company. Farmers' Warehouse Company applies to sell and the Sawtelle Warehouse Company applies to purchase all of the following described property:

Lots 1 to 8, both inclusive, of the Wendell Tract, in the city of Sawtelle, county of Los Angeles, State of California, as per map recorded in Book 5, page 140, of Maps, in the office of the county recorder of said county;

Also, that portion of lot 7 in block 1 of the Clarence Tract, in the city of Sawtelle, county of Los Angeles, State of California, as per map recorded in Book 1, page 42, of Maps, in the office of the county recorder of said county, described as follows:

Commencing at a point on the southwesterly line of said lot 7, 150 feet northwesterly from the most southerly corner thereof; thence northwesterly along said lot line, 40 feet to the land conveyed to William E. Sawtelle by deed recorded in Book 2076, page 140, of Deeds, records of said county; thence northeasterly along said land, 107.5 feet to the right of way of the Southern Pacific Railroad Company; thence southeasterly along said right of way 40 feet to a point 150 feet northwesterly from the most easterly corner of said lot; thence southwesterly 107.5 feet to the point of beginning;

Also, the south 150.00 feet of lot 7, block 1, of the Clarence Tract, in the city of Sawtelle, county of Los Angeles, State of California, as per map recorded in Book 1, page 42, of Maps, in the office of the county recorder of said county, more particularly described as follows:

Commencing at the most southerly corner of said lot, thence northwesterly along the southwesterly line 150.00 feet; thence northeasterly parallel with the southeasterly line of said lot, 107.5 feet to the right of way of the Southern Pacific Railroad Company; thence southeasterly

150.00 feet along said right of way to the most easterly corner of said lot; thence southwesterly along the southeasterly line of said lot, 107.5 feet to the place of beginning;

Together with all improvements and buildings thereon, together with all of the personal property used in and about the said premises in carrying on its said business, particularly including grain piler, scales, motor, boiler, barley rolls, bean cleaner and trucks.

The purchase price for this property is to be \$18,000.00 and 180 shares of stock of the par value of \$18,000.00 is sought to be issued in payment for such property.

The authorized capital stock of this company is \$25,000.00, divided into 250 shares of the par value of \$100.00 each.

If this company is permitted to issue the shares desired to be issued in payment for the property to be acquired, there will remain 70 shares which the company applies to issue and sell at par, proceeds of such shares to be used in the business of said Sawtelle Warehouse Company other than its public utility business.

III.

Hueneme Wharf and Warehouse Company. The Farmers' Warehouse Company applies to sell and the Hueneme Wharf and Warehouse Company to purchase the following described property:

Part of blocks 1 and 2, as said blocks are designated and delineated upon that certain map entitled "Plat of the town of Hueneme, surveyed for T. R. Bard, Esq., June, 1872," and recorded in the office of the county recorder of Ventura County in Book 1 of Miscellaneous Records, at page 179, and particularly described as an entirety as follows:

Beginning at a point in the south line of Main street, distant east 4.00 feet from the northwest corner of lot 1. in said block 2, and from which point a spike in center line of Main street bears east 59.00 feet and north 40.00 feet; said point of beginning being the northwest corner of that certain parcel of land as conveyed by Thomas R. Bard and Alfred J. Salisbury to Bank of Hueneme, by deed dated April 1, 1889, and recorded in the office of the county recorder of said Ventura County in Book 27 of Deeds at page 498 *et seq.*, thence from said point of beginning—

1st. South 78.00 feet to the southwest corner of said land of the Bank of Hueneme; thence at right angles,

2d. East 20.00 feet to a point; thence at right angles,

3d. South 22.00 feet to the southwest corner of the first parcel of land described in deed of Hueneme Wharf Company to Moise L. Wolff

et al., dated July 6, 1895, and recorded in the office of the county recorder of Ventura County in Book 47 of Deeds, at page 1 *et seq.*; thence at right angles,

4th. East 77.00 feet to a point; thence at right angles,

5th. South 728.14 feet to a point in line No. 27 of the final survey of the Rancho El Rio de Santa Clara o' La Colonia (see map entitled "Map No. 1, lands in subdivisions 84, 85 and 87 of Rancho El Rio de Santa Clara o' La Colonia," and recorded in the office of the county recorder of Ventura County in Book 3 of Miscellaneous Records (Maps), at page 13); thence

6th. North 80 degrees 30 minutes west 675.77 feet along line No. 27 of the final survey of the Rancho El Rio de Santa Clara o' La Colonia (said line No. 27 being indicated on the above described map No. 1), to a point; thence

7th. North 424.34 feet to a point; thence at right angles,

8th. East 195.00 feet to a point; thence at right angles,

9th. North 292.25 feet to a point in the south line of Main street of said town of Hueneme, from which the point of intersection of the west line of Pacific street and the south line of Main street bears west 407.00 feet distant; thence,

10th. East 374.50 feet, along the south line of Main street, to the point of beginning, containing an area of 9.98 acres, more or less.

Together with all and singular the warehouse buildings, stables, sheds, outhouses, fences, roadways, wharves, bridges and approaches to said wharves, machinery and all other improvements in and upon or belonging to said real property, and their appurtenances, and equipment and all accretions to said real property caused by the Pacific Ocean; also that certain wharf built over the beach and out into the waters of the Pacific Ocean in front of said real property above described, and all the bridges, approaches, roadways, houses, equipment and appurtenances, and also that certain wharf franchise granted by order and grant of the board of supervisors of the county of Ventura, State of California, on the 18th day of December, 1899, for the term of twenty years, as by said grant provided, together with those certain rights, privileges and franchise, all contained in said order and grant of said board of supervisors of date December 18, 1899, and now of record in the office of the county clerk of Ventura County in Book 1 of Franchises, at page 14, of record in the office of the county recorder of said Ventura County in Book 1 of Franchises, at page 7, which said order and grant of said franchise, rights, and privileges and license are hereby referred to and by reference made a part hereof, subject, however, to all of the terms and conditions imposed upon the grantee thereof by said order and grant;

Together with all improvements and buildings thereon, together with all of the personal property used in and about the said premises in carrying on its said business, particularly including trucks, pile drivers, donkey engine, engine, boiler, horses, grain piler, barley rolls, bean cleaners, scales, narrow gauge cars, etc.

The purchase price to be paid by Hueneme Wharf and Warehouse Company is \$100,000.00, payable by issuing 600 shares of the stock of the Hueneme Wharf and Warehouse Company of the par value of \$60,000.00, and by a note for \$40,000.00, dated June 16, 1913, payable on or before five years from date, bearing interest at the rate of 6 per cent per annum.

The authorized capital stock of this corporation is \$150,000.00, divided into 1,500 shares of the par value of \$100.00 each.

If this company is permitted to issue its 600 shares of stock in payment for the property, there will remain 900 shares of its authorized issue unissued. Of these shares the corporation applies to issue 250 shares and sell the same at par and use the proceeds in making permanent extensions and improvements to its wharf and warehouse property at Hueneme, and it likewise applies to issue 200 shares in addition thereto and sell the same at not less than par and devote the proceeds of such shares to its incidental business, which is not public utility.

It is in evidence that the amount which should be paid to the Farmers' Warehouse Company by the three public utilities for the property to be turned over was determined by appointing two disinterested men to appraise this property, and I see no reason to doubt that under this method the amounts to be paid for this property are probably reasonable. However, it is unnecessary to pass upon this question finally, because in the order the usual condition should be inserted providing that the values at which these properties are taken over shall not be binding upon this Commission or any other rate-fixing body in fixing reasonable rates. I am satisfied, however, that the purchase price is not so disproportionate to the real value of the property as to warrant this Commission in withholding its approval on that ground.

The general plan as already suggested is to sever the public utility business of the Farmers' Warehouse Company from its mercantile business so that the entire affairs of this large institution shall not be subjected to regulation which would not be contemplated by the law if the public utility business were not connected with it. While the new enterprises will not be altogether free from the difficulty which attaches to the main enterprise, yet I believe that the situation will be somewhat better from the standpoint of convenient and effective regulation if this application is granted, than is now the case. The terms upon which the stock is to be issued should meet with the approval of the Com-

mission, inasmuch as all the stock is to be issued at par and the public utility corporations are to receive into their treasuries par for all of the stock issued. The only difficulty arises from the fact that the corporations which are to take over the public utility business will be, under the testimony in this case, enabled to transact that public utility business on better terms if they carry on in conjunction therewith a certain amount of non-public utility business incidental to the public utility business which is the main concern, and the carrying on of this incidental business makes it necessary that certain working capital be secured which will be necessarily devoted to purposes other than public utility purposes. We have heretofore commented on this situation in the decision in Application No. 311, and I see no other way of getting around the difficulty than the one suggested there, and I believe, under all the circumstances of this case, that the additional stock should be issued but that the proceeds thereof should be restricted to non-public utility purposes.

The Farmers' Warehouse Company, if this application is granted, will amend its articles of incorporation so that it will not henceforth be empowered to transact any public utility business, and on so amending its articles and on divesting itself of all public utility property it will not be further subject to regulation by this Commission.

I submit the following order:

ORDER.

The Farmers' Warehouse Company having applied to sell and the Huntington Beach Warehouse Company, the Sawtelle Warehouse Company, and the Hueneme Wharf and Warehouse Company having applied to purchase all of the property described in the opinion hereto to be purchased by each of these companies, and the Huntington Beach Warehouse Company, the Sawtelle Warehouse Company and the Hueneme Wharf and Warehouse Company having applied to issue stock on the terms and in the amount and for the purposes set out in the opinion hereto, and the hearing having been held and being fully apprised in the premises,

It is hereby ordered,

First—The Farmers Warehouse Company is hereby granted authority to sell and the Huntington Beach Warehouse Company is hereby granted authority to purchase all of the property described in the opinion hereto which the said Farmers' Warehouse Company applies to sell to the said Huntington Beach Warehouse Company for \$18,000.00.

Second—The Huntington Beach Warehouse Company is hereby authorized to issue 180 shares of its capital stock at par and deliver the same to the Farmers' Warehouse Company in payment for the property aforesaid.

Third—The Huntington Beach Warehouse Company is hereby authorized to issue 70 shares of its capital stock at not less than par, and to sell the same for cash, and to devote the proceeds thereof to the lawful purposes of said corporation, other than public utility purposes. If at any time subsequent hereto it is desired by the Huntington Beach Warehouse Company to apply the proceeds of these 70 shares of stock, or any thereof, to any of the public utility purposes of said Huntington Beach Warehouse Company, said Huntington Beach Warehouse Company shall apply to this Commission setting out the purposes for which it is desired to make such expenditures and the Commission will pass upon said application when so made.

Fourth—The Farmers' Warehouse Company is hereby authorized to sell and the Sawtelle Warehouse Company is authorized to purchase all of the property described in the opinion hereto which the said Farmers' Warehouse Company applies to sell and the said Sawtelle Warehouse Company applies to purchase for a consideration of \$18,000.00.

Fifth—The Sawtelle Warehouse Company is hereby authorized to issue 180 shares of its capital stock at par and to deliver the same to the Farmers' Warehouse Company in payment for the property aforesaid.

Sixth—The Sawtelle Warehouse Company is hereby authorized to issue 70 shares of its capital stock and to sell the same at not less than par for cash, and to devote the proceeds thereof to the lawful purposes of said corporation, other than public utility purposes. If at any time subsequent hereto it is desired by the Sawtelle Warehouse Company to apply the proceeds of these 70 shares of stock or any part thereof to any of the public utility purposes of said Sawtelle Warehouse Company, said Sawtelle Warehouse Company shall apply to this Commission setting out the purposes for which it is desired to make such expenditures and the Commission will pass upon said application when so made.

Seventh—The Farmers' Warehouse Company is hereby authorized to sell and the Hueneme Wharf and Warehouse Company authorized to purchase all of the property heretofore described in the opinion hereto which said Farmers' Warehouse Company applies to sell to said Hueneme Wharf and Warehouse Company for a consideration of \$100,000.00, said \$100,000.00 to be paid in the manner hereinafter set out.

Eighth—Said Hueneme Wharf and Warehouse Company is hereby authorized to issue 600 shares of its capital stock and deliver the same at par to the Farmers' Warehouse Company in part payment for the property hereinbefore described and said Hueneme Wharf and Ware-

house Company is further authorized to execute and deliver a promissory note in the sum of of \$40,000.00, dated June 16, 1913, payable on or before five years from date, bearing interest at the rate of 6 per cent per annum, in payment to the said Farmers' Warehouse Company for the balance of the \$100,000.00 due for said property herein authorized to be purchased.

Ninth—Hueneme Wharf and Warehouse Company is hereby authorized to issue 250 shares of its capital stock and to sell the same at not less than par for cash and to use the proceeds thereof for the purpose of making extensions and improvements in its wharfage and warehouse property at Hueneme, Ventura County, California, and particularly for the purpose of changing its present wooden wharf to a concrete structure.

Tenth—Said Hueneme Wharf and Warehouse Company is further authorized to issue 250 shares of its capital stock and to sell the same at par for cash and to use the proceeds thereof for the lawful purposes of said corporation other than public utility purposes. If at any time subsequent hereto it is desired by the Hueneme Wharf and Warehouse Company to apply the proceeds of these 250 shares of stock or any part thereof, to any of the public utility purposes of said Hueneme Wharf and Warehouse Company, said Hueneme Wharf and Warehouse Company shall apply to this Commission setting out the purposes for which it is desired to make such expenditures and the Commission will pass upon said application when so made.

Eleventh—The several prices at which the property is here sold and purchased by the three public utilities in question shall not be binding upon this or any other public authority as a value to be considered in the fixing of rates of such public utilities.

Twelfth—The Huntington Beach Warehouse Company, the Sawtelle Warehouse Company, and the Hueneme Wharf and Warehouse Company shall each and severally keep separate and true accounts of the proceeds received from the sale of the stock herein authorized to be issued and shall account to this Commission under the general orders and rules of this Commission applicable thereto for the distribution of all the proceeds received from the sale of said stock and the Hueneme Wharf and Warehouse Company shall prepare and submit to this Commission plans and specifications for the improvement of its wharf and warehouse facilities at Hueneme in detail specifically to this Commission before the expenditure of any of the proceeds of the sale of stock authorized for such purposes.

Thirteenth—This order will become effective on the payment of the fee provided by law.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

DECISION No. 983.

A. M. BUCHANAN

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 425.

Decided October 2, 1913.

Complainant alleges inadequate service as regards the maintaining of a station agent at the town of Traver and petitions Commission to establish at said town an agency station.

Held. That defendant be required to maintain an agency station at Traver until it is determined whether or not conditions justify a modification of this order.

Leroy J. Smith, of Edwards & Smith, for Complainant.

E. J. Foulds, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this case A. M. Buchanan, a merchant and resident of Traver, a station on the San Joaquin Division of the Southern Pacific Company, 5.7 miles south of Kingsburg, and 8.2 miles north of Goshen Junction, petitions the Commission for an order requiring the Southern Pacific Company to restore and maintain an agent at that point.

It appears that the carrier erected a station building at this point and for a number of years maintained an agent at Traver and that on or about January 1, 1909, it withdrew its agent and thereafter operated that station as a "prepay station," and it is alleged by the complainant that the withdrawal of the agent has resulted in detriment and damage to the people of the town of Traver and its vicinity, and that the present facilities are unreasonable, unjust and inadequate. The defendant contends that the revenue received from traffic to and from Traver was not and is not now sufficient to justify the maintenance of an agent thereat, and that while some inconvenience may have resulted from the withdrawal of the agent at Traver, that it is not material and sufficient to justify the maintenance of an agent there.

The evidence shows that considerable inconvenience and detriment have resulted from the withdrawal of the agent at Traver, in various ways, to the people shipping or receiving goods there, or passengers traveling to or from that point. For instance, since the withdrawal of the agent periodic excursion fares have not been available from Traver to other points, as from nearby stations—such as Goshen Junction and Kingsburg—for the reason that there has been no agent there to sell tickets at such fares and the train conductors are not permitted to do so.

Again, because there is no agent at Traver, passengers boarding trains there for points of destination beyond Fresno can only purchase, from conductor of the train, tickets to Fresno, the conductors of the trains carrying passengers from Traver to Fresno not being authorized or permitted to sell tickets to points beyond their runs, which terminate at Fresno, and are required to detrain at that point and purchase of the agent there tickets to their destinations, otherwise pay an additional fare as a penalty for not having secured a ticket at that point, unless, in the discretion of the conductor, sufficient opportunity to do so was not given. This same condition obtains in cases of persons traveling to points beyond Goshen Junction, except on certain through trains which operate with the same train crew into Los Angeles.

There has been much inconvenience experienced in the ordering of cars for loading of carload shipments at Traver, and it is of record that live stock has been driven from points nearby Kingsburg into Traver to be weighed, for the reason that there is at Kingsburg no adequate scales for weighing live stock, and then driven back to Kingsburg for loading into the cars of the defendant for transportation. The return drive from Traver to Kingsburg, for a distance of 5.7 miles, was made rather than suffer the inconvenience attendant upon securing cars for loading at that point and rather than take the risk, after loading at that point, of having the live stock remain in the cars for a great length of time, tending to their damage, it being impossible to ascertain there the probable time of arrival and departure of the train in which the live stock would likely be transported, and, therefore, it could not be arranged that the loading be delayed until immediately prior to the arrival of such train, as at agency stations.

The defendant submitted a statement of the revenue received from the traffic to and from Traver in support of its contention that such revenue did not justify the maintenance of an agent thereat, but it admitted that its figures did not reflect the entire revenue received from passenger traffic from Traver, as passengers boarding defendant's trains at that point and journeying beyond Fresno and Goshen Junction, except in certain cases, could only purchase from conductor tickets

to those points. Again, it is reasonable to presume from the evidence that quite a great deal of freight which ordinarily would move from Traver, if there were an agent at that point, has been diverted to Kingsburg, and for this reason also the statement of revenue does not completely set out the revenues of that station if maintained as an agency.

While it can not be definitely determined at the present time just what conditions would prevail at Traver if an agency were maintained there, with reference to revenue, yet I am of the opinion that under all of the circumstances of this case that the defendant should be required to re-establish such depot. If after such depot has been maintained for a reasonable length of time it appears that a modification of this order should be made it may then be done.

I, therefore, submit the following form of order:

ORDER.

A. M. Buchanan, having filed with this Commission a complaint as to the service of the Southern Pacific Company at its station called Traver on its San Joaquin Division, and a full investigation and hearing of the matters and things involved having been had,

It is hereby ordered that the Southern Pacific Company install an agent at its station called Traver on its San Joaquin Division, and maintain said agent at that point until the further order of this Commission; and

It is further ordered that the Southern Pacific Company shall keep a complete and accurate account for the period of one year of the business transacted at said station of Traver and the additional expense incurred because of the maintenance of an agent there; also complete data of the number of passengers traveling to and from that point, and submit the same to this Commission; and

It is further ordered, that the provisions of this order be put into effect not later than twenty (20) days from the date of the service of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

DECISION No. 984.

IN THE MATTER OF THE APPLICATION OF THE EMPIRE WATER COMPANY FOR AN ORDER AUTHORIZING ISSUE OF BONDS, AND IN THE MATTER OF THE APPLICATION OF EMPIRE WATER COMPANY FOR PERMISSION TO CONSTRUCT A HYDROELECTRIC PLANT NEAR COYOTE CREEK, SAN DIEGO COUNTY, CALIFORNIA.

Application No. 170.

Decided October 2, 1913.

Applicant petitions the Commission to authorize a bond issue of the face value of \$200,000.00, proceeds to be used in the construction of a hydroelectric plant.

Held, Applicant being unable to present sufficient information as to the financing of said plant, application is denied, without prejudice.

Byron Waters, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is an application by Empire Water Company, a corporation, for an order authorizing the issue of \$200,000.00 face value of bonds, in denominations of \$100.00 each, payable twenty years after date and to bear interest at the rate of five per cent per annum, interest payable semiannually.

Applicant is a corporation with an authorized capital stock of \$50,000.00, divided into 1,000 shares of the par value of \$50.00 each, of which there has heretofore been issued 742½ shares, or a par value of \$37,125.00. The only assets of the company are stated to be water rights, and engineering, platting and surveying, but no statement is made as to the money expended for these various items, nor is any specific value placed upon them by applicant.

This project contemplates the building of a submerged dam across a narrow gorge on Coyote Creek in San Diego County. It is proposed to sink this dam to bedrock, but as no borings have been made it is not known at what distance below the surface the bedrock lies. The dam is to be about 100 feet long and is supposed to catch and impound all the water yielded from the watershed tributary to Coyote Creek,

to those points. Again, it is reasonable to presume from the evidence that quite a great deal of freight which ordinarily would move from Traver, if there were an agent at that point, has been diverted to Kingsburg, and for this reason also the statement of revenue does not completely set out the revenues of that station if maintained as an agency.

While it can not be definitely determined at the present time just what conditions would prevail at Traver if an agency were maintained there, with reference to revenue, yet I am of the opinion that under all of the circumstances of this case that the defendant should be required to re-establish such depot. If after such depot has been maintained for a reasonable length of time it appears that a modification of this order should be made it may then be done.

I, therefore, submit the following form of order:

ORDER.

A. M. Buchanan, having filed with this Commission a complaint as to the service of the Southern Pacific Company at its station called Traver on its San Joaquin Division, and a full investigation and hearing of the matters and things involved having been had,

It is hereby ordered that the Southern Pacific Company install an agent at its station called Traver on its San Joaquin Division, and maintain said agent at that point until the further order of this Commission; and

It is further ordered that the Southern Pacific Company shall keep a complete and accurate account for the period of one year of the business transacted at said station of Traver and the additional expense incurred because of the maintenance of an agent there; also complete data of the number of passengers traveling to and from that point, and submit the same to this Commission; and

It is further ordered, that the provisions of this order be put into effect not later than twenty (20) days from the date of the service of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

DECISION No. 984.

IN THE MATTER OF THE APPLICATION OF THE EMPIRE WATER COMPANY FOR AN ORDER AUTHORIZING ISSUE OF BONDS, AND IN THE MATTER OF THE APPLICATION OF EMPIRE WATER COMPANY FOR PERMISSION TO CONSTRUCT A HYDROELECTRIC PLANT NEAR COYOTE CREEK, SAN DIEGO COUNTY, CALIFORNIA.

Application No. 170.

Decided October 2, 1913.

Applicant petitions the Commission to authorize a bond issue of the face value of \$200,000.00, proceeds to be used in the construction of a hydroelectric plant.

Held, Applicant being unable to present sufficient information as to the financing of said plant, application is denied, without prejudice.

Byron Waters, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Empire Water Company, a corporation, for an order authorizing the issue of \$200,000.00 face value of bonds, in denominations of \$100.00 each, payable twenty years after date and to bear interest at the rate of five per cent per annum, interest payable semiannually.

Applicant is a corporation with an authorized capital stock of \$50,000.00, divided into 1,000 shares of the par value of \$50.00 each, of which there has heretofore been issued 742½ shares, or a par value of \$37,125.00. The only assets of the company are stated to be water rights, and engineering, platting and surveying, but no statement is made as to the money expended for these various items, nor is any specific value placed upon them by applicant.

This project contemplates the building of a submerged dam across a narrow gorge on Coyote Creek in San Diego County. It is proposed to sink this dam to bedrock, but as no borings have been made it is not known at what distance below the surface the bedrock lies. The dam is to be about 100 feet long and is supposed to catch and impound all the water yielded from the watershed tributary to Coyote Creek,

and which yield, it is claimed by witnesses for applicant, percolates underground and is wasted. No borings or other adequate tests have been made to determine the existence or amount of this underground flow, and the conclusion of applicant's witnesses as to the probable yield is based wholly upon surface indications.

Applicant's witnesses estimated a constant yield of water at the dam of 20 cubic feet per second, but an examination by the engineers of this Commission of all the data upon which this estimate is based indicates an outside safe yield of 10 cubic feet per second, and this latter estimate is based upon the assumption that the theories of applicant's witnesses as to the possibility of storing and drawing off this water as planned are sound. At times there is no surface run-off at the dam site, and the greatest reported run-off, which occurred in February, 1910, was 8 cubic feet per second, and the underflow in the cross section area to be dammed, as described by applicant's witnesses, would not probably yield 2 cubic feet per second.

It is proposed to carry the water about $7\frac{1}{2}$ miles from the dam in a flume or ditch and drop it about 500 feet through a power house, the water thereafter to be taken by a flume or ditch to Borego Valley for irrigation purposes. The power developed at the power house is to be conveyed by wire about 35 miles to the Coachella and Indio valleys, there to be sold for lighting and power purposes.

No sufficient data has been furnished upon which a reasonably safe conclusion can be arrived at as to the successful development and impounding of a sufficient amount of water under the plan proposed to insure the success of this enterprise, and while I do not conceive it to be the duty of this Commission to insist upon complete proof of the final success of an enterprise before permission will be given to the launching of the same, still I think where the whole enterprise is to be financed upon the sale of bonds, that this Commission should be put upon information showing the feasibility of the enterprise. A different situation would be created if the promoters proposed to expend their own money to finance this enterprise, because being on full information people should not be restrained from investing their money in enterprises calculated to develop the country, even where considerable risk may be entailed on making such investments. But we are asked to authorize the issuance of bonds which will be sold to the public, to some extent on the faith of the Commission's authorization.

The engineer of applicant who testified at the hearing, and who produced estimates of the cost of installing the hydroelectric feature of this enterprise, is not in agreement with the engineers of this Commis-

sion who have examined these estimates. The estimates made by applicant's engineer are as follows:

| | |
|--|---------------------|
| Power plant with switchboard----- | \$50,000 00 |
| Pipe line from reservoir to power plant, 7½ miles----- | 40,000 00 |
| Forty miles of main transmission line----- | 50,000 00 |
| Laterals—20 miles----- | 15,000 00 |
| Dam----- | 25,000 00 |
| Contingencies----- | 20,000 00 |
| Total----- | \$200,000 00 |

The engineers of this Commission agree that under certain conditions of work the above estimates, except that for the pipe line from the dam to the power house, are reasonable. As to this line, they hold that it would cost four times the estimated amount if standard practice were to be used, or \$160,000.00 instead of \$40,000.00. This would increase the total estimated cost by \$120,000.00, or \$320,000.00.

As the total amount of bonds asked to be authorized is \$200,000.00, and the highest price suggested as obtainable for these bonds was 85 per cent of face, there would be a considerable margin between the sum obtained on the sale of these bonds and the amount necessary to complete this project, and no definite plan has been suggested by applicant for meeting this deficiency.

It should not be concluded that this project is not feasible, but it is evident that sufficient information has not been furnished this Commission, nor has an adequate financial plan been provided to finance the same, to warrant this Commission in granting this application at this time. Therefore, I recommend that this application be denied, calling attention to the fact that applicant may at any time renew this application and support the same with the production of more complete evidence and the presentation of a more adequate financial plan.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California for an order authorizing the issue by Empire Water Company of \$200,000.00 face value of bonds, and a public hearing having been held thereon, and it appearing to the Commission that public convenience and necessity do not at this time require that said application be granted,

It is hereby ordered that the application of the Empire Water Company for authorization to issue \$200,000.00 face value of bonds be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

DECISION No. 985.

IN THE MATTER OF THE APPLICATION OF GEORGE W. KITCHEN TO SELL AND THE MADERA GAS COMPANY TO BUY A CERTAIN GAS PLANT LOCATED IN THE CITY OF MADERA, AND OF THE MADERA GAS COMPANY TO ISSUE STOCKS AND BONDS.

Application No. 729.

Decided October 2, 1913.

Applicants petition the Commission's authorization the one to sell a certain gas plant situated in the city of Madera and the other to issue and deliver \$25,000.00 face value of bonds and \$25,000.00 face value of stock in consideration for said property.

Held, That authorization be granted to the sale of said property; that buyer be permitted to issue and deliver in consideration therefor \$25,000.00 face value of bonds and \$14,000.00 par value of stock.

Henry E. Carter, for Applicant.

REPORT OF THE COMMISSION.

ESHELMAN, Commissioner.

The applicant, George W. Kitchen, has constructed a gas plant in the city of Madera and now desires to turn over the same to the Madera Gas Company, which has been organized by himself for this purpose, and he desires to have stocks and bonds of the Madera Gas Company issued in payment for said property.

The Madera Gas Company has an authorized capital stock of \$75,000.00 divided into 75,000 shares of the par value of \$1.00 each. None of this stock except stock to qualify directors has been issued. This company likewise has an authorized bonded indebtedness of \$50,000.00 secured by a deed of trust to the Citizens' Trust and Savings Bank of Los Angeles. These bonds bear interest at 6 per cent.

The testimony shows that approximately \$32,120.00 was actually expended in the construction of this plant, and it is also in evidence that the pipes laid by a former gas company under the paved streets in the city of Madera, but never used to deliver gas, have been purchased by this company. It was testified that the present value of the entire property owned by the applicant, George W. Kitchen, is approximately \$36,564.00. Permission is asked to issue bonds to the face value of \$25,000.00 and to apply the same at 80 on the purchase price of the property; and it is asked that in addition thereto \$25,000.00 of stock

be issued to the applicant, Kitchen; said stock and bonds to be in full payment for the property to be turned over to the corporation.

I am convinced that the application to issue the bonds should be granted and the bonds given to the applicant, Kitchen, as partial payment for the property and that in addition thereto certain stock should be issued and also delivered to Mr. Kitchen for this property. I am not willing, however, to recommend that \$25,000.00 of stock in addition to the \$25,000.00 of bonds be issued at this time. The evidence shows that Mr. Kitchen put up all the money to construct this property and now has it in condition for serving the public and that it is actually engaged in the delivery of gas to the people of Madera. This is one of the few instances coming to my attention where a promoter of a utility has been willing to put up the money to construct the property.

Inasmuch as the seller is the entire owner of this property, and will take all of the stocks and bonds of the applicant corporation which this Commission authorizes to be issued in payment therefor, it becomes unnecessary to fix any price at which either the stock or bonds shall be sold so long as the amount which is authorized does not overburden the property and there is a proper relationship between the bonded indebtedness and the issue of stock.

It is my opinion that the Madera Gas Company should be permitted to issue the \$25,000.00 par value of bonds as applied for and to turn the same over as a part of the purchase price of the property to said George W. Kitchen, and likewise that in addition thereto said Madera Gas Company be permitted to issue \$14,000.00 par value of stock and deliver the same to George W. Kitchen in payment for the remainder of the purchase price of said property.

I reach this conclusion for the following reasons: assuming the value of the property is approximately \$36,000.00, with an authorized issue of \$25,000.00 six per cent bonds, it will be burdened with an indebtedness of \$25,000.00, which leaves a margin of \$11,000.00, which would permit the amount of stock authorized to be issued at approximately 80. This arrangement will, in my opinion, bring about substantially a proper relationship between the amount of stocks and bonds. Any additional issue of either stocks or bonds would start this utility out in a condition which I do not believe would be proper from the standpoint of the public, which must furnish the patrons for this utility, and certainly the owners of all of the stocks and bonds of this utility can not be seriously injured by the scaling down of the amount of stocks when thereby the value of each share of stock will be proportionately increased.

Application was also made to issue bonds, in addition to the \$25,000.00, of the par value of \$5,000.00 and to sell the same and to vote the proceeds therefrom to the purposes of the corporation, but this part of the

application was not pressed and it was indicated by the applicant that he was agreeable to defer the determination of this question to a future application.

I submit the following form of order:

ORDER.

George W. Kitchen having applied to sell and the Madera Gas Company having applied to purchase all of the gas system with its appurtenances owned by said George W. Kitchen in the city of Madera, and the Madera Gas Company having applied to issue stock and bonds and to give the same in payment to George W. Kitchen for said property; and a hearing having been held, and being fully apprised in the premises,

It is hereby ordered,

First—That permission is granted by the Railroad Commission to George W. Kitchen to sell and the Madera Gas Company to purchase all of the gas system with its appurtenances owned by said George W. Kitchen in the city of Madera on the following terms:

Said Madera Gas Company shall deliver to said George W. Kitchen twenty-five thousand (\$25,000) dollars par value of its six (6%) per cent bonds, to be issued under the terms of a certain deed of trust heretofore referred to and set out as Exhibit "I" in the application hereto; and in addition thereto fourteen thousand (14,000) shares of its capital stock of the par value of fourteen thousand (\$14,000) dollars.

Second—Said Madera Gas Company is hereby authorized to issue twenty-five thousand (\$25,000) dollars of its six (6%) per cent bonds under the terms of the deed of trust heretofore referred to, and to deliver the same to said George W. Kitchen as provided in subdivision one hereof.

Third—Madera Gas Company is hereby authorized to issue fourteen thousand (14,000) shares of its capital stock of the par value of fourteen thousand (\$14,000) dollars and to deliver the same to George W. Kitchen as provided in subdivision one hereof.

Fourth—The price at which the Madera Gas Company purchases and George W. Kitchen sells the property to be hereafter used by the Madera Gas Company in its public utility business in the city of Madera shall not be binding upon this Commission or any other public authority as a value to be considered in any rate fixing or other inquiry.

Fifth—The Madera Gas Company and George W. Kitchen shall file with this Commission within thirty (30) days from the date of this order a notice of compliance herewith.

Sixth—This order is to become effective on the payment of the fee provided by law.

Seventh—The Madera Gas Company shall report to this Commission the fact of the issue of the bonds and stock hereby authorized, when issued.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

Decision No. 986, grade crossing; not printed. See end of volume.

DECISION No. 987.

IN THE MATTER OF THE APPLICATION OF THE WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED AND FIFTY-FOUR THOUSAND DOLLARS.

Application No. 616.

Decided October 2, 1913.

Supplemental order permitting applicant to dispose of the balance of certain bonds heretofore authorized, said balance amounting to \$75,000.00 face value, at 82½ instead of 88½, or to hypothecate same at not less than 80.

REPORT OF THE COMMISSION.

OPINION AND SECOND SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner*.

Petitioner, the Western States Gas and Electric Company, having been granted, by the opinion and order of this Commission in Application No. 616, permission to sell bonds of the face value of \$354,000.00 at 88½, plus accrued interest, and having sold \$279,000.00 face value at said price of 88½, plus accrued interest, now finds it impossible to sell the remaining \$75,000.00 at said price and asks permission to sell said \$75,000.00 of bonds at 82½, plus accrued interest, and further asks permission, in the event that said bonds can not be sold at 82½, to hypothecate them at 80.

The financial condition of applicant was thoroughly set forth in original Application No. 616 and my judgment warrants the granting of this application.

I recommend the following second supplemental order:

SECOND SUPPLEMENTAL ORDER.

Whereas the Western States Gas and Electric Company, a corporation, has heretofore, to wit, on August 30, 1913, been granted permis-

sion by this Commission to issue bonds of the face value of \$354,000.00, said bonds to be sold at 88½, plus accrued interest; and

Whereas said applicant has sold \$279,000.00 worth of said bonds at said price of 88½, plus accrued interest, and now finds it impossible to sell the remaining \$75,000.00 at said price;

It is hereby ordered that the Western States Gas and Electric Company be and it is hereby granted permission to sell the \$75,000.00 of bonds remaining unsold of the \$354,000.00 heretofore granted, as above set forth, at 82½, plus accrued interest.

And it is further ordered that the Western States Gas and Electric Company be and it is hereby authorized to hypothecate said \$75,000.00 worth of bonds, in the event that it is found impossible to sell them at said price of 82½, plus accrued interest, said bonds to be hypothecated at not less than 80.

It is further ordered that in all other respects, the original order, dated August 30, 1913, shall remain in full force and effect.

The foregoing opinion and second supplemental order are hereby approved and ordered filed as the opinion and second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

DECISION No. 988.

IN THE MATTER OF THE APPLICATION OF ANGELS' FLIGHT RAILWAY COMPANY TO PURCHASE THE ANGELS' FLIGHT RAILWAY IN THE CITY OF LOS ANGELES.

Application No. 306.

Decided October 2, 1913.

Applicant asks for a modification of original order so as to permit an issue of \$100,000.00 par value of stock in lieu of \$40,000.00 face value of bonds and \$14,000.00 par value of stock heretofore authorized.

Held, That original order be annulled and that application be opened for further hearing.

Milton K. Young, for the Angels' Flight Railway Company.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION.

EDGERTON, *Commissioner*.

On the 25th day of April, 1913, this Commission made and entered its order as follows:

“Application having been made to the Railroad Commission of

the State of California by Angels' Flight Railway Company to issue \$40,000.00 face value of six per cent bonds, to become due not later than July 1, 1924, and \$100,000.00 par value of capital stock, and authorizing it to purchase for said stock and said bonds that certain railroad incline and passenger-conveying system now owned by J. W. Eddy in the city of Los Angeles, and which is commonly known as and called 'Angels' Flight' and authorizing said company to mortgage said property as security for the payment of said bonds, and for an order authorizing J. W. Eddy to sell said Angels' Flight Railway to said Angels' Flight Railway Company,

"And a public hearing having been duly held and it appearing to the Commission that it is proper that the Angels' Flight Railway Company issue and deliver stock and bonds to the amount hereinafter provided for the acquisition of the railroad property within the city of Los Angeles known as 'Angels' Flight,' and that public convenience and necessity will be served by the sale of said railroad property by J. W. Eddy to said Angels' Flight Railway Company,

"It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Angels' Flight Railway Company of \$40,000.00 face value of six per cent bonds, to be payable not later than July 1, 1924, and \$14,000.00 par value of capital stock, and to pay and deliver said stocks and bonds for the transfer to it of the railroad property situated in Los Angeles, California, and known as 'Angels' Flight,' and said Angels' Flight Railway Company is further authorized to mortgage its property to secure the payment of said bonds;

"And it is hereby further ordered that the Railroad Commission of the State of California does hereby authorize the sale by J. W. Eddy and the purchase by Angels' Flight Railway Company for the considerations above stated, of that certain property situated in the city of Los Angeles and known as 'Angels' Flight.'

"As conditions precedent to the effectiveness of this order, said Angels' Flight Railway Company shall submit before its execution for the approval of this Commission a trust deed under which said bonds are to be issued, and as a further condition precedent to the effectiveness of this order, there shall be submitted for the approval of this Commission a conveyance setting out in detail the property to be transferred under the authority of this order, and which property is generally known as 'Angels' Flight.'

"The rights and privileges granted by this order shall be exercised within a period of six months from the date hereof, and if not exercised within such time, such rights and privileges shall cease and this order will thereupon become void.

"The payment of the fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order."

Subsequently the Commission was informed by applicant that other arrangements than those contemplated in the order had been made with Mr. Eddy for the purchase of the railway property involved, and that no bonds would be issued under the order.

Application was thereupon made for a modification of said order, eliminating the authorization for the issuance of bonds and authorizing the issue of \$100,000.00 par value of stock.

The status of this transaction has apparently been very considerably altered by the change in the plan of applicant, and I think it advisable under the circumstances that an opportunity be given for a full presentation of the present status of this matter at a hearing. Therefore, I recommend that the order heretofore made herein be annulled and canceled and that the application herein be set down for a further hearing.

I submit herewith the following form of order:

SUPPLEMENTAL ORDER.

It appearing to the Commission for the reasons set out in the foregoing opinion that the order heretofore made herein, dated the 25th day of April, 1913, should be canceled and annulled, and the application herein be set down for further hearing; now, therefore,

It is hereby ordered that the order heretofore made and entered herein, dated the 25th day of April, 1913, and bearing Decision No. 605, be and the same is hereby canceled and annulled, and the application herein is hereby ordered to be set down for further hearing.

The foregoing supplemental opinion and supplemental order are hereby approved and ordered filed as the supplemental opinion and supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of October, 1913.

DECISION No. 989.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION FOR PERMISSION TO FURNISH ELECTRIC CURRENT TO THE CALIFORNIA RICE MILLING COMPANY IN THE CITY OF BIGGS, COUNTY OF BUTTE, STATE OF CALIFORNIA.

Application No. 779.

Decided October 3, 1913.

REPORT OF THE COMMISSION.

This Commission having, on July 3, 1912, made its order upon Application No. 64 granting to Oro Electric Corporation permission to serve all of Butte County except the cities and towns of Chico, Biggs and Gridley, and Oro Electric Corporation having applied to this Com-

mission for a certificate permitting it to serve the California Rice Milling Company within the city of Biggs; and it appearing that the board of trustees of the city of Biggs has given its consent to the service of the California Rice Milling Company by applicant for the reason that the amount of current required by the California Rice Milling Company is far in excess of the ability of the city to supply through its municipal plant; and it appearing further that the Pacific Gas and Electric Company is not opposed to the granting of this application,

It is hereby ordered that Oro Electric Corporation be, and it hereby is, permitted to serve the California Rice Milling Company within the city of Biggs, Butte County, California.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of October, 1913.

DECISION No. 990.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN
LIGHT AND POWER CORPORATION FOR PERMISSION TO
ISSUE TWO-YEAR SIX PER CENT COLLATERAL TRUST
GOLD NOTES.

Application No. 629.

Decided October 6, 1913.

REPORT OF THE COMMISSION.

The Railroad Commission of the State of California having heretofore and on the 12th day of July, 1913, made its order, to wit, Order No. 790, and having on the 12th day of September, 1913, made its order, to wit, Order No. 946, supplemental thereto, granting power to said San Joaquin Light and Power Corporation to issue said notes in accordance with the terms of said draft of said trust agreement so filed with the Commission; and it appearing that said draft does not conform to said trust agreement as actually executed by said San Joaquin Light and Power Corporation in this, that the words "First, indebtedness incurred in operating its properties, and second," appearing in said trust agreement as executed in the first sentence of section 6 of article IV, between the words "however" and "indebtedness," are omitted from the draft of said trust agreement filed with the Commission; now, therefore,

It is ordered that said draft of said trust agreement so filed with the Commission may be amended *nunc pro tunc* as of the date of said

Order No. 946 by the insertion of said words so omitted, so that said draft of said trust agreement as filed may conform to said trust agreement so executed.

Dated at San Francisco, California, this 6th day of October, 1913.

DECISION No. 991.

IN THE MATTER OF THE APPLICATION OF THE SUNLAND RURAL TELEPHONE COMPANY FOR PERMISSION TO INSTITUTE A TOLL CHARGE TO SUBSCRIBERS FOR TELEPHONE SERVICE BETWEEN SUNLAND AND LOS ANGELES, AND FOR APPROVAL OF CERTAIN RATES FOR LOCAL SERVICE.

Application No. 714.

Decided October 6, 1913.

Permission granted applicant to discontinue existing rates and establish a uniform rate of \$1.50 per month with a toll charge of 10 cents for first three minutes and 3 cents for each additional minute between Sunland and Los Angeles; The Pacific Telephone and Telegraph Company to receive 50 per cent of all toll charges.

L. T. Rowley, for Applicant.

C. F. Mason, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

Applicant, the Sunland Rural Telephone Company, in this application asks for permission to change its monthly rate from \$2.50 to \$1.50 and to institute a toll charge between Sunland and Los Angeles of 10 cents for three minutes' conversation and 3 cents for each additional minute, the business to be handled on what is known as the "two-number" basis.

Applicant is at present charging those of its subscribers who are stockholders \$2.50 per month and an assessment sufficient to maintain applicant's telephone system. Under this rate, its subscribers who are stockholders are allowed free switching privileges with the Los Angeles and Glendale exchanges of The Pacific Telephone and Telegraph Company with which its lines are connected, the Sunland Rural Telephone Company paying to The Pacific Telephone and Telegraph Company a certain rate per year for each telephone connected with its lines. To

subscribers who are not stockholders, the Sunland Rural Telephone Company charges for the use of its line a rate of 5 cents for local messages in its Sunland exchange and for messages to Los Angeles a rate of 15 cents for three minutes and 5 cents for each additional minute.

Applicant now desires to discontinue assessing its subscribers and to charge all persons, whether stockholders or not, the toll rate mentioned above of 10 cents for three minutes and 3 cents for each additional minute for messages between Sunland and Los Angeles.

To allow applicant to charge its stockholders for a service which is now furnished without charge is equivalent to allowing an increase in rates, but it must be borne in mind that by permitting applicant to do this the monthly rates which subscribers now pay of \$2.50 will be reduced to \$1.50 and will relieve subscribers who are stockholders from further assessments. It should be borne in mind that applicant's present rates are discriminatory and that the granting of this application will remove such discrimination.

Applicant's line extends from Sunland to Glendale, and from Glendale to Los Angeles messages will be transmitted over the lines of The Pacific Telephone and Telegraph Company, with which company applicant desires to enter into an agreement under the terms of which The Pacific Telephone and Telegraph Company is to retain 50 per cent of the Sunland Rural Telephone Company's tolls on all toll business passing over the lines of the Sunland Rural Telephone Company.

As the Commission is aware, 30 per cent is the usual toll charge of The Pacific Telephone and Telegraph Company, but it was disclosed by the testimony in this case that The Pacific Telephone and Telegraph Company will handle the local company's toll business on a "two-number" basis and for this purpose must provide special facilities to be used exclusively in rendering such "two-number" service. The Pacific Telephone and Telegraph Company will also operate the local company's terminals in Glendale and will discontinue the yearly charge formerly paid by the Sunland Rural Telephone Company for each of the Sunland Rural Telephone Company's subscribers connected with its lines.

The directors of the Sunland Rural Telephone Company are strongly of the opinion that the granting of this application will place their company on a much better basis, do away with the necessity for further assessments and remove the discrimination now found in its rates. They also testified that they believed the arrangement proposed with The Pacific Telephone and Telegraph Company was decidedly advantageous to the Sunland Rural Telephone Company's subscribers.

Upon the evidence given in the case, I find as a fact that the interests of the Sunland Rural Telephone Company and of its subscribers will best be served by granting the application, and I recommend the following order:

ORDER.

Application having been made by the Sunland Rural Telephone Company, of Sunland, California, to change the monthly rate of \$2.50, which is now paid by its subscribers who are stockholders, and of 5 cents per switch, now paid by its subscribers who are not stockholders, who also pay a toll of 15 cents on all messages of three minutes' conversation, with 5 cents for each additional minute to Los Angeles, to a uniform rate of \$1.50 per month, and to establish a toll charge of 10 cents for the first three minutes and 3 cents for each additional minute on all messages from Sunland to Los Angeles, and to arrange with The Pacific Telephone and Telegraph Company to handle such messages from Glendale to Los Angeles and to handle the terminals of the Sunland Rural Telephone Company at Glendale, for which service The Pacific Telephone and Telegraph Company is to receive 50 per cent of all toll charges on messages passing over the lines of the Sunland Rural Telephone Company;

And the Commission having found that the granting of this application will be of advantage to the subscribers of the Sunland Rural Telephone Company and that the arrangement with The Pacific Telephone and Telegraph Company under the circumstances of that company furnishing a "two-number" service and handling the terminals of the Sunland Rural Telephone Company at Glendale is a reasonable one;

It is hereby ordered that the application of the Sunland Rural Telephone Company be and it is hereby granted, and the company is authorized to reduce its subscription now charged to its stockholders from \$2.50 to \$1.50 and to charge all subscribers the rate of \$1.50 per month, and to put into effect a toll charge of 10 cents between Sunland and Los Angeles for the first three minutes and 3 cents for each additional minute; and to enter into an agreement with The Pacific Telephone and Telegraph Company to handle the toll business of the Sunland Rural Telephone Company between Glendale and Los Angeles and also to handle the terminals of the Sunland Rural Telephone Company at Glendale, for which services the Sunland Rural Telephone Company is authorized to pay to The Pacific Telephone and Telegraph Company 50 per cent of all toll charges passing over the lines of the Sunland Rural Telephone Company;

Provided, that nothing in this opinion and order shall be understood

as passing upon the reasonableness of said rates, that matter not being before the Commission in this application.

Provided, further, that this order shall become effective upon the filing with this Commission by the Sunland Rural Telephone Company of a revised rate schedule, as herein provided, said rate schedule to be filed not later than thirty days from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1913.

DECISION No. 992.

IN THE MATTER OF THE APPLICATION OF THE FRESNO-HANFORD AND SUMMIT LAKE INTERURBAN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF PREFERRED STOCK.

Application No. 773.

Decided October 6, 1913.

Applicant authorized to issue \$225,000.00 par value of preferred stock, proceeds to be used: (1) To retire bonds of the face value of \$98,000.00 heretofore issued; (2) in the payment of current indebtedness; (3) in the completion of a portion of applicant's road from Fresno to Selma.

H. P. Brown, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Under date of August 30, 1913, applicant was granted permission to issue its forty-year six-per-cent bonds in the sum of \$358,000.00 to be sold at 80, the proceeds to be devoted to the building of the first unit of its electric road from Fresno, California, to Selma, California.

In the hearing of Application No. 374, under which said bonds were authorized, applicant agreed at an early date to apply to this Commission for permission to issue its preferred stock, to be sold at par, for the purpose of retiring \$98,000.00 worth of bonds issued by said applicant before the effective date of the Public Utilities Act, the holders of said bonds agreeing to take said preferred stock at par and also to ask

permission to issue preferred stock to care for current indebtedness in a small amount.

At the hearing of said Application No. 374, also, two of applicant's principal stockholders, namely, Mr. W. D. Mitchell and Mr. Wylie M. Giffen, each agreed to subscribe for \$25,000.00 worth of the preferred stock of applicant at par, such subscription to be paid in time to be available to the building of the last five miles of the first unit of applicant's road.

Applicant now asks for permission to issue \$225,000.00 worth of preferred stock in shares of the par value of \$100.00 each, to bear interest at the rate of seven per cent, said interest to be cumulative, and said shares to have no voting power and to be non-assessable.

The proceeds from the sale of said stock are to be used: *first*, in retiring the \$98,000.00 worth of bonds above referred to; *second*, the discharge of current indebtedness; and, *third*, to the completion of the financing of the first unit of applicant's road from Fresno to Selma.

Applicant presented to the Commission assurances that the holders of the bonds aggregating \$98,000.00 had agreed to exchange said bonds for preferred stock, and this order is made conditional upon such exchange.

It is unnecessary for the purposes of this opinion and order to go into the financial condition of applicant or the detailed description of the contemplated construction of its road, all of that having been thoroughly investigated and passed upon in Application No. 374, under which the bond issue was authorized.

In applying to the Commission at this time to issue preferred stock for the purposes mentioned, applicant is complying with its promise to the Commission made at the time Application No. 374, under which the bonds were authorized, was heard.

I recommend that the application be granted, and that the Commission do not pass upon applicant's request that the preferred stock shall have no voting power and shall be non-assessable. If applicant have the right, under the law, to issue preferred stock bearing these limitations the decision of this Commission is not necessary to the legality of the limitations, its permission being necessary only to the issue of the stock.

I recommend the following order:

ORDER.

Whereas, under Application No. 374, the opinion and order in which are dated August 30, 1913, this Commission granted to the Fresno-Hanford and Summit Lake Interurban Railway Company permission to issue bonds in the sum of \$358,000.00; and

Whereas applicant agreed at that time that it would soon make an application to the Commission to issue preferred stock for the purpose of retiring bonds issued and sold previous to the effective date of the Public Utilities Act for paying current indebtedness and for assisting in the completion of the first unit of applicant's road from Fresno to Selma; and

Whereas applicant has now made such application to issue \$225,000.00 worth of preferred stock, to be sold at not less than par, for the purposes above mentioned;

And the Commission finding that such purposes are just and proper;

It is hereby ordered that the Fresno-Hanford and Summit Lake Interurban Railway Company be and it is hereby granted permission to issue preferred stock in the sum of \$225,000.00, to be sold at not less than par, the proceeds thereof to be devoted: *first*, to the retirement of \$98,000.00 worth of bonds heretofore issued by applicant; *second*, to the payment of current indebtedness; *third*, to assist in completing applicant's first unit of its railway from Fresno to Selma; and for no other purposes.

Fresno-Hanford and Summit Lake Interurban Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds derived from the sale of said stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

The authority hereby given to issue such stock shall apply only to stock issued by said company on or before the thirtieth day of September, 1914.

The effectiveness of this order is conditioned on the prior payment of the fee specified in section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1913.

DECISION No. 993.

IN THE MATTER OF THE APPLICATION OF THE TULARE COUNTY POWER COMPANY FOR AN ORDER AUTHORIZING IT TO EXECUTE A TRUST DEED AND CHATTEL MORTGAGE TO CHARLES J. WRIGHTSMAN TO SECURE THE PAYMENT OF TWENTY-TWO PROMISSORY NOTES, AGGREGATING TWO HUNDRED AND FIFTY THOUSAND DOLLARS, FOR A LOAN OF TWO HUNDRED THOUSAND DOLLARS; TO RECALL, CANCEL AND DESTROY AN ISSUE OF SIX HUNDRED FIRST MORTGAGE BONDS, AND TO CAUSE TO BE SATISFIED AND RELEASED OF RECORD THE MORTGAGE DATED JANUARY 2, 1913, MADE BY THE TULARE COUNTY POWER COMPANY TO THE MERCANTILE TRUST COMPANY OF SAN FRANCISCO, SECURING PAYMENT OF SAID BONDS; TO SELL THREE HUNDRED AND THIRTY SHARES OF THE CAPITAL STOCK OF THE TULARE COUNTY POWER COMPANY AT NOT LESS THAN PAR.

Application No. 736.

Decided October 6, 1913.

Held, Tulare County Power Company authorized to issue twenty-two promissory notes aggregating \$250,000.00 and issued for varying terms, the longest being eighteen months from date; these notes to be given to Charles J. Wrightsman for a cash loan of \$200,000.00, and the notes to be secured by mortgage on property of applicant.

Held, Tulare County Power Company authorized to issue its preferred stock of the par value of \$33,000.00. The \$200,000.00 cash and the preferred stock of the par value of \$32,500.00 are to be given to creditors of applicant in the event that they agree to take the same together with \$80,000.00 now owing to applicant in full settlement of their claims.

Held, Order to be effective only on presentation to Commission of evidence that mortgage executed to secure bonds authorized by order on Application No. 368, hereby rescinded has been canceled.

A. M. Drew, for Tulare County Power Company.

J. J. Dunn, for C. J. Wrightsman.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Applicant, the Tulare County Power Company, is a corporation organized and existing under the laws of the State of California, and having its principal place of business in the city of Lindsay, county

of Tulare, State of California. Applicant was incorporated on June 10, 1910, with an authorized capital stock of \$1,000,000.00, divided into 10,000 shares of the par value of \$100.00 each, of which 2,500 shares were preferred, 7 per cent cumulative, and 7,500 shares were common. Applicant is engaged in generating, selling and distributing electric current for heat, light and power purposes in the said county of Tulare.

Applicant first applied to this Commission on the thirtieth day of August, 1912, for an order authorizing it to mortgage its plant, system and property to Thomas C. Job to secure advances theretofore made and thereafter to be made to said company by said Thomas C. Job in the maximum amount of \$175,000.00, under Application No. 211, records of this Commission. At the time of filing said application applicant filed with the Commission a certified copy of its articles of incorporation, as required by law, and also furnished a statement of its financial condition showing: (a) amount and kinds of stock authorized; (b) amount and kinds of stock issued and outstanding; (c) terms of preference of preferred stock; (d) statement of its other indebtedness; (e) amount of interest paid from date of organization to August 1, 1912; (f) detailed statement of earnings and expenditures from date of organization to August 1, 1912; and (g) copy of proposed mortgage.

This application was regularly heard and the opinion and order rendered under date of September 25, 1912.

Applicant later adopted a scheme of furnishing electric energy for heat, light and power purposes to its stockholders at cost, and to certain other consumers at the rate prevailing in the territory served. To effect this scheme the articles of incorporation were amended so that 5,500 shares of common stock were set aside and designated "consumers' common stock," and the owner and holder of each share thereof is entitled to the privilege of the use of one horsepower of electric energy at the actual cost of production. Certified copies of the amended articles of incorporation were filed with the Commission.

In granting the application of the Tulare County Power Company, under Application No. 211, in its opinion the Commission said, with reference to applicant's arrangement to issue "consumers' common stock":

"The Commission does not in this opinion pass on the legality or advisability of this arrangement."

I am of the opinion that the Commission should take the same position with reference to this application, and not pass upon the legality or advisability of applicant issuing consumers' stock.

It was developed by testimony at the hearing that, while the owners of consumers' stock were to receive power at \$36.00 per horsepower, that sum was not definitely determined as cost, but was to be a sum

charged such owners of consumers' stock until it was demonstrated that it was less than cost. In other words, they are to pay cost for the power.

In its order the Commission provided that the mortgage executed by applicant to Thomas C. Job should be placed in escrow and not delivered to said Job until he had placed in the hands of the trustee in escrow the sum of \$125,000.00, which sum the said trustee was to pay to the creditors of the company, as of August 31, 1912, other than said Job.

This condition was not complied with, and at a later date, to wit, on January 1, 1913, applicant presented to this Commission Application No. 368, under which it asked for an order authorizing it to issue, sell, hypothecate, pledge, transfer or otherwise dispose of its 6 per cent gold bonds of the face value of \$300,000.00, said bond issue to be secured by a deed of trust to the Mercantile Trust Company of San Francisco of all of applicant's property. Applicant also asked that the order of this Commission entered on the twenty-fifth day of September, 1912, under Application No. 211, whereby the property of applicant was mortgaged to Thomas C. Job, be vacated and set aside.

After a hearing, at which all of the circumstances connected with and surrounding applicant were carefully considered and investigated, this application was granted.

Being unable, owing to disturbed financial conditions, to sell its bonds, applicant again applied to the Commission on August 14, 1913, under Application No. 694, asking permission to issue to Thomas C. Job its promissory notes, face value of \$50,000.00, and to hypothecate, as security therefor, its 6 per cent gold bonds issued under permission of the Commission under Application No. 368 in the sum of \$66,500.00; also Application No. 695, under which it asked permission to issue to Thomas C. Job its promissory note of the face value of \$3,243.82 and to hypothecate, as security therefor, eight of its 6 per cent gold bonds of the par value, in the aggregate, of \$4,000.00. These applications were granted, except as to Application No. 695, which was dismissed.

Later applicant asked for and was granted permission to hypothecate other bonds to secure indebtedness of John Roebling & Sons, Hunt, Mirk & Company, Allis Chalmers & Company, and other creditors.

The above is a brief but definite recital of the Tulare County Power Company's applications to this Commission, and of the action of the Commission had thereon, and brings the matter down to the present time.

Under date of September 11, 1913, applicant filed with the Commission its Application No. 736, which is the application now under consideration.

I will now recite briefly the salient points of the present application.

As has been stated, the Tulare County Power Company found itself unable to sell its 6 per cent gold bonds, authorized by the Commission under Application No. 368, and was confronted with the necessity of finding other means of financing itself.

Its financial condition, as set forth in Exhibit "A," filed with and made a part of the present application, is substantially as follows:

| | |
|---|--------------|
| Value of property, about----- | \$450,000 00 |
| Indebtedness ----- | 308,000 00 |
| Due the Tulare County Power Company from sundry creditors, about ----- | 80,000 00 |
| Yearly revenue above current expenses, something over--- | 56,000 00 |

At this juncture applicant interested Mr. C. J. Wrightsman, of Oklahoma, and after an exhaustive study of the situation by Mr. Wrightsman the following proposition is presented to the Commission at this time as Application No. 736:

Mr. Wrightsman offers to loan applicant \$200,000.00 upon condition that applicant give to him its notes for \$250,000.00, one note for \$25,000.00 being payable in six months from date, another note for \$25,000.00 being payable in twelve months from date, and the remainder, represented by a note of \$200,000.00, being payable one year and six months from date, all of said notes being without interest save and except as some portion of the \$50,000.00 is considered interest; as will appear hereafter.

A condition precedent to the making of this loan by Mr. Wrightsman is that the creditors of the Tulare County Power Company agree to accept the \$200,000.00 cash to be loaned by Wrightsman, the \$80,000.00 due from sundry creditors, and preferred stock of applicant in the sum of \$32,500.00 in full settlement of their accounts, and to release applicant from all further liability, with the understanding that the collection of the accounts due applicant is to be handled by a committee of creditors, to which committee shall be issued the stock of applicant to the amount of \$32,500.00, and after the \$200,000.00 and amounts collected and amounts realized from the sale of the \$32,500.00 of stock have been applied to the discharge of applicant's indebtedness, any surplus which the creditors' committee may have will be returned to applicant.

Applicant has asked to amend its application by asking permission to issue said preferred stock in the sum of \$32,500.00 to thus assist in retiring its current indebtedness.

At the time Application No. 368, under the decision in which the Tulare County Power Company was given permission to issue bonds,

as recited above, was under consideration, the Commission made such investigation of applicant's financial condition as satisfied it that said bond issue should be granted, being a part of the order in that application that the proceeds of said bonds were to be spent in adding to the value of the property.

The Commission has not made further investigation of the financial condition of the Tulare County Power Company while considering its present application, for the reason that a careful investigation was made by Mr. Wrightsman before he decided to loan applicant the \$200,000.00 as above recited.

As additional security for his loan of \$200,000.00, Mr. Wrightsman demanded that the stockholders of the Tulare County Power Company should, individually and collectively, sign a contract guaranteeing the payment of the notes aggregating \$250,000.00 to be given by the company to Mr. Wrightsman for the loan of the \$200,000.00. In securing this contract from the farmers, Mr. Wrightsman employed Mr. C. E. Bush, who spent about three or four weeks visiting the stockholders of the Tulare County Power Company, and Mr. Bush reported to this Commission that, in securing the signatures of one hundred and seventy-five stockholders, but one man refused to sign the note.

It must be borne in mind that while Mr. Wrightsman loans applicant but \$200,000.00 and takes applicant's notes for \$250,000.00, secured by all of its property and by the contract of guarantee of the stockholders, as above set forth, the \$50,000.00 to be paid Mr. Wrightsman in excess of the amount he loans is not altogether a bonus, but represents the interest on the \$200,000.00 and also reimburses Mr. Wrightsman for services performed by him or by Mr. Bush or Mr. Hughes for him in bringing about a reorganization of the company and securing the consent of the creditors to the plan, as outlined above.

While Mr. Wrightsman's terms may seem a little severe, I am strongly of the opinion that the Tulare County Power Company is indeed fortunate in finding some one at the present juncture of its affairs to do what Mr. Wrightsman is doing.

Applicant asks that the deed of trust and mortgage heretofore given to the Mercantile Trust Company of San Francisco to secure its bond issue, granted under Application No. 368, be canceled and discharged of record. This is a matter outside the jurisdiction of this Commission except that it can and will make this order conditional upon such being done.

It was testified at the hearing that applicant, in the near future, would assess its stock for the purpose of securing funds to build important extensions which would result in increased revenue to applicant.

I believe and find that as a fact that it will be of advantage to the Tulare County Power Company to consummate this arrangement with Mr. Wrightsman and that the interests of the stockholders and consumers of the Tulare County Power Company will be best served by permitting this arrangement to be completed.

I recommend the following order:

BY THE COMMISSION:

ORDER.

The Tulare County Power Company, a corporation, having applied to this Commission for permission to recall, cancel and destroy an issue of 600 first mortgage bonds of the value of \$500.00 each, heretofore authorized by the Railroad Commission of the State of California under an order dated February 20, 1913, and to execute to Charles J. Wrightsman, of Oklahoma, twenty-two promissory notes, aggregating \$250,000.00, for a loan of \$200,000.00, and to secure said notes by a mortgage or deed of trust of all of its property, and to cause to be satisfied and released of record the mortgage dated January 2, 1913, made by the Tulare County Power Company to the Mercantile Trust Company of San Francisco, securing the payment of the bonds above referred to; and to issue three hundred and thirty shares of its capital stock, to be sold at not less than par, to assist in the discharge of current indebtedness of applicant;

And a hearing having been regularly held, and the matters and things connected with the application thoroughly investigated, as set forth in the preceding opinion;

And the Commission having found as a fact that it will be to the advantage of applicant, and also to the advantage of its consumers, to consummate said deal with said Wrightsman;

It is hereby ordered that the Tulare County Power Company be and it is hereby authorized:

(1) To execute twenty-two promissory notes, aggregating \$250,000.00, to C. J. Wrightsman, for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable in six months from date, \$25,000.00 in twelve months from date, and the remainder of \$200,000.00 being due and payable one year and six months from date, all of said notes to be without interest save and except some portion of the \$50,000.00 considered interest, as set forth in the preceding opinion; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date;

(2) To cause to be satisfied and released of record the mortgage dated January 2, 1913, made by the Tulare County Power Company to

the Mercantile Trust Company of San Francisco to secure the payment of the bonds above mentioned;

(3) To issue three hundred and thirty shares of its capital stock to be sold at not less than par to assist in liquidating current indebtedness of applicant;

(4) It is further ordered that the order resulting from the hearing of Application No. 368 be canceled and rescinded, and that this order shall not become effective until applicant has presented to the Commission evidence that the deed of trust and mortgage given to the Mercantile Trust Company of San Francisco to secure the bond issue, granted under Application No. 368, has been discharged and canceled of record.

Tulare County Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock, bonds and notes hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or disposition of said stock, bonds and notes during the preceding month, the terms and conditions of such sale or other disposition and the application of the money realized from such sale or disposition, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

The authority herein granted to issue stock, bonds and notes shall apply only to stock, bonds and notes issued prior to September 30, 1914.

The effectiveness of this order is conditioned on the prior payment of the fee specified in section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1913.

DECISION No. 994.

IN THE MATTER OF THE APPLICATION OF THE TULARE COUNTY POWER COMPANY FOR AN ORDER AUTHORIZING IT TO EXECUTE A TRUST DEED AND CHATTEL MORTGAGE TO CHARLES J. WRIGHTSMAN TO SECURE THE PAYMENT OF TWENTY-TWO PROMISSORY NOTES AGGREGATING TWO HUNDRED AND FIFTY THOUSAND DOLLARS FOR A LOAN OF TWO HUNDRED THOUSAND DOLLARS; TO RECALL, CANCEL AND DESTROY AN ISSUE OF SIX HUNDRED FIRST MORTGAGE BONDS OF THE VALUE OF FIVE HUNDRED DOLLARS EACH AND TO CAUSE TO BE SATISFIED AND RELEASED OF RECORD THE MORTGAGE DATED JANUARY 2, 1913, MADE BY THE TULARE COUNTY POWER COMPANY TO THE MERCANTILE TRUST COMPANY OF SAN FRANCISCO SECURING PAYMENT OF SAID BONDS; AND TO SELL THREE HUNDRED AND THIRTY SHARES OF THE CAPITAL STOCK OF THE TULARE COUNTY POWER COMPANY AT NOT LESS THAN PAR.

Application No. 736.*Decided October 8, 1913.*

A. M. Drew, for Tulare County Power Company.

J. J. Dunn, for C. J. Wrightsman.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner.*

It is hereby ordered that the order of this Commission of October 6, 1913, in the above entitled matter, being Application No. 736, be amended by changing the order therein to the following:

ORDER.

The Tulare County Power Company, a corporation, having applied to this Commission for permission to recall, cancel and destroy an issue of 600 first mortgage bonds of the value of \$500.00 each, heretofore authorized by the Railroad Commission of the State of California under an order dated February 20, 1913, and to execute to Charles J. Wrightsman, of Oklahoma, twenty-two promissory notes, aggregating \$250,000.00, for a loan of \$200,000.00, and to secure said notes by a

mortgage or deed of trust of all of its property, and to cause to be satisfied and released of record the mortgage dated January 2, 1913, made by the Tulare County Power Company to the Mercantile Trust Company of San Francisco securing the payment of the bonds above referred to; and to issue three hundred and thirty shares of its capital stock, to be sold at not less than par, to assist in the discharge of current indebtedness of applicant; and a hearing having been regularly held, and the matters and things connected with the application thoroughly investigated, as set forth in the preceding opinion; and the Commission having found as a fact that that it will be to the advantage of applicant, and also to the advantage of its consumers, to consummate said deal with said Wrightsman.

It is hereby ordered that the Tulare County Power Company be and it is hereby authorized:

(1) To execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable February 1, 1914; \$25,000.00 being due and payable August 1, 1914; and the remainder of \$200,000.00 being due and payable February 1, 1915; all of said notes to be without interest save and except some portion of the \$50,000.00 considered interest, as set forth in the preceding opinion; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date;

(2) To cause to be satisfied and released of record the mortgage dated January 2, 1913, made by the Tulare County Power Company to the Mercantile Trust Company of San Francisco to secure the payment of the bonds above mentioned;

(3) To issue three hundred and thirty shares of its capital stock to be sold at not less than par to assist in liquidating current indebtedness of applicant;

(4) It is further ordered that Tulare County Power Company shall place the notes herein authorized to be issued in escrow to be delivered to C. J. Wrightsman after he shall have placed in escrow the sum of \$200,000.00 to be paid for said notes to Tulare County Power Company, and said notes shall not be transferred to C. J. Wrightsman until Tulare County Power Company has presented to the Commission evidence that the deed of trust and mortgage given to the Mercantile Trust Company of San Francisco to secure the bond issue granted under Application No. 368 has been discharged and canceled of record.

Tulare County Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the pro-

ceeds of the sale of said stock, bonds and notes hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or disposition of said stock, bonds and notes during the preceding month, the terms and conditions of such sale or other disposition and the application of the money realized from such sale or disposition, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

The authority herein granted to issue stock, bonds and notes shall apply only to stock, bonds and notes issued prior to September 30, 1914.

The effectiveness of this order is conditioned on the prior payment of the fee specified in section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1913.

DECISION No 995.

THE COMMISSION ON ITS OWN INITIATIVE IN THE MATTER
OF SANITARY DRINKING CUPS ON PASSENGER CARS.

Case No. 460.

Decided October 8, 1913.

Held, That all steam or electric interurban railroads whose running time between termini exceeds one hour and thirty minutes shall provide, for the use of passengers, sanitary paper drinking cups at a cost not to exceed one cent each.

R. G. Dilworth, San Diego Electric Street Railway Company; Point Loma Railway Company; San Diego and Coronado Ferry Company; San Diego and Southeastern Railroad Company; San Diego and Arizona Railroad Company.

U. T. Clotfelter, The Atchison, Topeka and Santa Fe Railway Company.
Allan P. Matthew, Western Pacific Railway Company.

H. C. Booth, Southern Pacific Company.

F. E. Chapin, Peninsular Railway and San Jose Railroads.

A. S. Halsted, San Pedro, Los Angeles and Salt Lake Railroad Company.

W. S. Palmer, Northwestern Pacific Railroad Company.

F. L. Wood, The Pullman Company.

W. V. Hill, Pacific Electric Railway Company; Fresno Traction. Stockton Electric and Visalia Electric Railways.

John S. Mills, San Francisco-Oakland Terminal Railways.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

A great many complaints have been received by the Commission relative to the inability to obtain drinking water on passenger cars in this State. During the warm months of July, August and September these complaints became more numerous; also a great many verbal complaints were made. On account of the number of these complaints, which were made informally, the Commission decided to investigate this matter on its own initiative.

On September 3, 1913, the Commission issued its order notifying all common carriers in the State that it would institute on its own initiative an investigation in the matter of the supply of sanitary drinking cups on passenger cars of steam railroads and interurban electric railroads in the State of California, and that a hearing in said matter would be held on Tuesday, September 23, 1913, in the office of the Commission, in the city of San Francisco, State of California, at which time and place all interested parties would have an opportunity to be heard. A hearing in the above matter was held on the date set, at which time testimony and opinions of all interested parties who desired to be heard was taken.

On October 30, 1912, the Treasury Department of the United States amended article 3 of the General Regulations of the Interstate Quarantine Regulations, as follows:

“Common carriers shall not provide in cars, vehicles, vessels or conveyances operated in interstate traffic or in depots, waiting rooms or other places used by passengers traveling from one state or territory or the District of Columbia to another state or territory or the District of Columbia, any drinking cup, glass or vessel for common use; provided, that this regulation shall not be held to preclude the use of drinking cups, glasses or vessels which are thoroughly cleaned by washing in water after being used by each individual, nor shall it be held to preclude the sanitary devices for individual use only.”

This order became effective in March of this year, and all of the railroads in the State withdrew the cups, glasses or other vessels that had been installed for the use of the public at water tanks in railway cars and depots. This action occasioned the numerous complaints that have been received by the Commission, both in writing and verbally. Undoubtedly, the majority of complainants did not know that the glasses and cups which had been furnished by the railroad company

were withdrawn in compliance with a Government order, but were of the opinion that same were voluntarily withdrawn by the railroad companies, and many of the complainants thought that the railroad companies' reasons for so withdrawing the cups was to encourage the sale of drinking cups, which were carried by news agents on their passenger trains.

For some time past the people who travel extensively have supplied themselves with their own individual drinking cups, but the people who only travel occasionally are generally not so provided. Many are unaware of the fact that the Government has compelled the railroad companies to withdraw the glasses or cups that were formerly furnished. This is especially true of women and children, and many of the complaints that have been received were either from women or men who have noticed that women and children have suffered for drinking water and have made complaints for them. There is no doubt in my mind but that some means should be available for all persons to secure a drink of water at a nominal cost on passenger trains, especially when there is a tank of water provided by the railroad company at one or both ends of the car.

At the hearing the representatives of the different railroad companies testified as to the manner in which they were supplying cups. In most cases where cups were supplied, with the exception of the Pullman Company, same are supplied by the news agents. The Southern Pacific Company has placed a sign on each water tank notifying the traveling public that it is unlawful to provide drinking cups in cars or waiting rooms and that individual drinking cups may be secured from the news agent on the train. This sign lists the different classes of cups that are for sale, together with the prices for same. The Brown News Company has an exclusive contract with the Southern Pacific Company to barter drinking cups, magazines and the usual merchandise sold by news agents on trains. This company has a package containing four paper cups, which is sold for five cents, and prices for cups range from this style, as the lowest, up to seventy-five cents for a collapsible nickel cup in a leather case. The Brown News Company operates only on the Southern Pacific Company's lines in this State, but there are news agents on the trains of the other large railroad companies in the State who operate in practically the same manner. These news agents sell their produce on a commission basis, and naturally endeavor to sell the highest priced article they have; and it is very often the case that the news agent does not display or inform the purchaser that cups may be had at less than twenty-five cents, and as a great many of the traveling public take only an occasional ride and do not know that cups can be purchased at a lower price, and further, due to the fact that but an occasional trip is taken, and a cup which is

permanent in its character and design is not desired, the intended purchaser very often through ignorance, or the high price of the cup, will forego the drink of water.

At the hearing testimony given by representatives of a great many of the carriers showed that the carriers who had news agents on their trains had for sale sanitary individual drinking cups at a nominal price. In a great many public places automatic cup-dispensing machines are installed, but only one or two of the railroad companies have tested these machines. One objection to the machine which dispenses the most desirable cup is that the company manufacturing same is having litigation with other cup-vending machine companies for patent infringement, etc.

Testimony was also introduced as to the prices of cups, and although this evidence was insufficient to determine the cost to the railroad companies of all classes of cups, at the same time the testimony which was given showed that cups could be purchased for from \$5.50 to \$6.00 per thousand, depending on the size of the order. This was for a paraffine, pressed paper cup, and probably as expensive cup as any other make of paper cups. Undoubtedly other cup manufacturers would have to sell their cups at as low a figure in order to compete with this cup. No testimony was introduced at the hearing tending to show how much it would cost the railroad companies to barter these cups. I am of the opinion that the railroad companies should be compelled to place these cups in the hands of the traveling public, and I am also of the opinion that they should not barter said cups for the purpose of making a profit from the sale of same, but I do believe that the railroad companies should have available for all passengers who so desire a cup at such a price as will not be unreasonable.

At the present time there are objections to the different types of vending machines and as same have not been thoroughly tested by the railroad companies in this section of the country, I do not believe that an order should be entered by this Commission at this time compelling the railroad companies in the State to install automatic cup-vending devices. I am also of the opinion that cups should not be required on trains whose schedule run is short. A great many of the companies whose scheduled movement is less than one hour or thereabout have not provided water tanks in their cars.

I believe and I find as a fact that the merits of this matter justify the Commission in issuing a general order, and I recommend that the following form of order, except the first two paragraphs thereof, be adopted, to be known as General Order No. 37:

ORDER.

Whereas there has been received by this Commission several complaints alleging the inability to secure drinking water on passenger cars

of the different railroads in the State, and the Commission being of the opinion that these complaints were sufficient in number to justify an investigation on the Commission's own initiative, and a hearing having been had in this matter, at which all railroads and interested parties were privileged to be present and give such testimony and express such views as they desired; and

Whereas on the 23d day of September, 1913, the Commission held said hearing, and after a careful and exhaustive study and consideration of the matter, it has been found as a fact that sanitary individual drinking cups should be available for all passengers who take a trip to exceed one hour and a half on steam railroads or electric interurban railroads within the State of California,

It is hereby ordered that all passenger cars of steam railroads and interurban electric railroads in the State of California that constitute a train or part of a train whose schedule time between terminals exceeds one hour and thirty minutes shall be so provided with sanitary individual drinking cups that passengers on said passenger cars may be able to purchase one or more cups at a price not to exceed one cent each, and the traveling public shall be so notified by means of a poster card notice placed in a conspicuous place at or near the water tank in each passenger car.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1913.

DECISION No. 996.

IN THE MATTER OF THE APPLICATION OF J. FRANK JACKSON AND IDA H. JACKSON FOR AN ORDER REGULATING THE USE OF WATER.

Application No. 385.

Decided October 8, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION AND ORDER.

LOVELAND, *Commissioner.*

Applicants are the owners of a small water system or plant at San Martin in Santa Clara County, California. Under Application No. 385

this Commission fixed the water rates for applicants, which rates have since been observed, but applicants state in the present application that the building of the state highway through the town of San Martin and in territory contiguous thereto has caused a large number of laborers to be brought to San Martin to work on the said state highway, said laborers living in tents and other temporary structures; that said laborers require water and applicants now ask permission to put in connections to the tents and other temporary abiding places of said laborers and furnish them with water at a flat rate of \$1.50 per month for each connection. The rate fixed by the Commission under Application No. 385 was a minimum of \$1.50 per month for 5,000 gallons and 25 cents additional for each 1,000 gallons or fraction thereof in excess of the 5,000 gallons. Owing to the temporary character of the work of building the state highway, and to the fact that the laborers will not require these connections or to receive water for a great length of time, the Commission is of the opinion that applicants should not be required to install meters to each connection, but should be permitted to serve the temporary residences of the laborers at a flat rate of \$1.50 per month.

I find, as a fact, that this is not a case where a hearing is necessary, and that the application should be granted *ex parte*, and it is so ordered.

The above supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1913.

DECISION No. 997.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN AT GRADE A CROSSING WITH THE RAILROAD OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY IN RIALTO AVENUE, IN THE CITY OF SAN BERNARDINO, AT A POINT APPROXIMATELY FIFTY-SEVEN (57) FEET WESTERLY FROM THE CENTER LINE OF I STREET IN SAID CITY OF SAN BERNARDINO.

Application No. 504.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY TO CONSTRUCT AND MAINTAIN AT GRADE A CROSSING WITH THE RAILROAD OF

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, IN RIALTO AVENUE, IN THE CITY OF SAN BERNARDINO, STATE OF CALIFORNIA, AT A POINT APPROXIMATELY SEVEN HUNDRED (700) FEET EAST OF THE WEST BOUNDARY LINE OF SAID CITY OF SAN BERNARDINO.

Application No. 506.

Decided October 8, 1913.

Pacific Electric Railway Company ordered to install and operate an interlocking plant at each of the two crossings over the tracks of the Atchison, Topeka and Santa Fe Railway Company involved in this application.

Frank Karr, for Pacific Electric Railway Company.

M. W. Reed, for the Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

On April 15, 1913, the Pacific Electric Railway Company filed with the Commission two applications for permission to construct and maintain at grade two crossings over the tracks of the Atchison, Topeka and Santa Fe Railway Company, in Rialto avenue, in the city of San Bernardino, San Bernardino County, California. These were assigned Applications No. 504 and No. 506. Application No. 504 was for permission to construct a grade crossing over the tracks of the Atchison, Topeka and Santa Fe Railway Company in Rialto avenue, approximately fifty-seven (57) feet westerly from the center line of I street, and Application No. 506 was for permission to construct a grade crossing over the tracks of the Atchison, Topeka and Santa Fe Railway Company, at a point in Rialto avenue approximately seven hundred (700) feet east of the west boundary line of said city of San Bernardino.

Attached to each application was a letter from the acting general manager of the Atchison, Topeka and Santa Fe Railway Company stating that the two companies were negotiating contracts for the crossing of the tracks of the respective companies in San Bernardino and that "no differences as to the terms thereof are anticipated." By these letters the Commission was led to believe that the two companies at interest had practically reached an agreement and entered an *ex parte* order in each application on April 18, 1913. Section (2) of each order provided that "All engines, motors, trains and cars of both applicant and the Atchison, Topeka and Santa Fe Railway Company before passing over said crossing shall come to a full stop within fifty (50) feet thereof, and shall not pass thereover until it has been ascertained that it is safe to do so and until proper signals have been given."

After the Commission entered its order in these applications the railroad companies could not come to an agreement amongst themselves as to the manner and method of constructing and operating the crossings, and on August 7, 1913, the applicant, Pacific Electric Railway Company, filed supplemental applications stating that they were unable to agree with the Atchison, Topeka and Santa Fe Railway Company; that the Atchison, Topeka and Santa Fe Railway Company did not desire to have the tracks of applicant constructed across its tracks unless the crossing was protected by a standard interlocking plant. Applicant stated that they did not believe it practicable nor feasible to install an interlocking plant for the reason that a portion of the plant would be in Rialto avenue, which is a public street. Consequently, the two companies interested were notified that a hearing in the matter would be held in San Bernardino on Thursday, October 2, 1913, at which time and place all interested parties might be present, be given an opportunity to be heard and present such testimony as was relevant.

The two applications were made by the same company; each application was for permission to construct a grade crossing over the tracks of the Atchison, Topeka and Santa Fe Railway Company. Both crossings applied for are in Rialto avenue, in the city of San Bernardino, and within approximately four thousand (4,000) feet of each other. Conditions at both crossings are practically the same, and any objection to the manner and method of constructing and operating one crossing would apply to both; consequently, the Commission combined the two applications in one hearing.

After the filing of the supplemental application by the Pacific Electric Railway Company, and prior to the hearing the two companies at interest agreed amongst themselves as to the manner and method in which the two crossings should be constructed and operated and also as to the division of the construction, operation and maintenance expenses. Applicant agreed to bear the entire expense of constructing the crossings, withdraw their objections to installing an interlocking plant and agreed to bear the entire cost of installing an interlocking plant at each crossing. Witnesses for applicant testified that in their opinion an interlocking plant was entirely feasible and practicable and that the crossings would be dangerous unless a standard interlocking plant was installed. There was no controversy as to the necessity of installing an interlocking plant at each crossing, and inasmuch as applicant had agreed with the Atchison, Topeka and Santa Fe Railway Company to install an interlocking plant near and to bear the entire expense of constructing same at each crossing, and the two railroad companies had agreed amongst themselves that the cost of maintenance and operation would be divided equally between them, it is not necessary that the Commission enter further into this matter.

Attorneys for both applicant and the Atchison, Topeka and Santa Fe Railway Company stated that it was desired that the Commission in this case establish a ruling as to the cost of construction, maintenance and operation that should be borne by each company, that said ruling might be used as a guide for apportioning construction, operation and maintenance expenses in the future, where the tracks of two railroads cross and an interlocking plant is installed. Inasmuch as the two companies at interest have agreed amongst themselves as to the division of construction, operation and maintenance costs and said agreement does not appear to the Commission to be unreasonable nor contrary to public policy, the Commission does not feel that this agreement entered into between the parties at interest should be set aside and annulled. However, it must not be construed that in approving the above agreement entered into between these two companies that the same can be used as a ruling by the Commission as to the manner and method in which construction, operation and maintenance costs shall be divided between two companies constructing an interlocking plant at a railroad grade crossing in the future where controversy between the two companies arises and where it is not possible to reach a mutual agreement between themselves.

Applicant's operating and engineering officials stated that an interlocking plant is necessary at each crossing and that the only means of positively safeguarding the crossings is with a standard interlocking plant. Applicant's superintendent of signals testified that estimates had been made as to the probable cost of constructing the two interlocking plants. The estimated cost of constructing the interlocking plant at the crossing applied for in Application No. 506, which is in Rialto avenue, approximately seven hundred (700) feet east of the west boundary line of San Bernardino, was \$14,000.00, and the estimated cost of the interlocking plant at the crossing applied for in Application No. 504, which is in Rialto avenue near "I" street, was \$21,300.00.

Inasmuch as the two companies at interest have mutually agreed that an interlocking plant should be installed at each crossing, that Pacific Electric Railway Company will bear the entire cost of constructing the interlocking plants and the cost of operation and maintenance will be borne equally by the two companies, I am of the opinion that the Commission should not annul the agreement entered into between the parties at interest.

I submit the following form of order:

ORDER.

Pacific Electric Railway Company, a corporation, having made application to the Commission for a modification of its orders of April 18, 1913, entered in Applications Nos. 504 and 506, and a hearing having

been had in the matter, of which all parties at interest were duly notified, and it appearing to the Commission that the conditions at each crossing are practically the same and therefore the two applications were combined in one hearing; and it further appearing that said applications for a modification of the Commission's orders requested an order of the Commission, prescribing the terms and conditions under which each crossing shall be installed and operated, if in the wisdom of the Commission a change should be made in the orders entered on the 18th day of April, 1913; and it appearing that subsequent to the issuing of said order in each application on the 18th day of April, 1913, and prior to the hearing on October 2, 1913, the two companies at interest mutually agreed amongst themselves that an interlocking plant at each crossing was a necessity, and that applicant would bear the entire expense of constructing the interlocking plant at each crossing and the cost of operation and maintenance would be borne equally between the two parties at interest,

It is hereby ordered that Pacific Electric Railway Company shall install and construct at its own expense a standard interlocking plant at the crossing of its tracks with the tracks of the Atchison, Topeka and Santa Fe Railway Company in Rialto avenue, approximately 700 feet east of the west boundary line of the city of San Bernardino, and shall also install and construct at its own expense a standard interlocking plant at the crossing of its tracks with the tracks of the Atchison, Topeka and Santa Fe Railway Company at a point approximately fifty-seven (57) feet west from the center line of "I" street, in Rialto avenue, both in the said city of San Bernardino, San Bernardino County, California.

The entire expense of operating and maintaining both interlocking plants shall be borne equally by Pacific Electric Railway Company and the Atchison, Topeka and Santa Fe Railway Company.

Applicant shall submit plans and specifications for said interlocking plants to this Commission for approval within ninety (90) days after the date of this order, and said plans and specifications shall in all manners conform to the Commission's General Order No. 33.

After the completion of said interlocking plants, upon application of the parties, the Commission will direct an inspection of same, and if completed in accordance with the plans and specifications previously approved, their operation will be authorized by special order of the Commission. Said device shall thereafter be maintained and operated in accordance with the rules and regulations prescribed in the Commission's General Order No. 33, governing in such matters.

Until said interlocking plants are completed and placed in operation under the approval of the Commission, all engines, motors, trains and

cars of both applicant and the Atchison, Topeka and Santa Fe Railway Company shall come to a full stop before passing over the crossing and within fifty (50) feet thereof, and shall not pass over the crossing until the conductor, or other employee has first gone thereon and ascertained that no engine, motor, train or car is approaching from either direction. Should no engine, motor, train or car be approaching then said conductor or other employee may signal and permit his engine, motor, train or car to proceed over the crossing.

All overhead wires or obstructions constructed at the crossing shall have a clearance above the rails of either company of twenty-two (22) feet. All pole lines, and other side obstructions, shall have a clearance from the center line of the tracks of either company of eight (8) feet, and shall in all other manners conform to the Commission's General Order No. 26.

The Commission reserves the right to hereafter make such further orders relative to the location, construction, maintenance and operation of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 8th day of October, 1913.

Decisions Nos. 998, 999, 1000 and 1001, grade crossings; not printed. See end of volume.

DECISION NO. 1002.

IN THE MATTER OF THE APPLICATION OF RIVERSIDE
ARTESIA WATER COMPANY TO SELL ITS DOMESTIC
AND IRRIGATION WATER SYSTEM TO THE CITY OF
RIVERSIDE.

Application No. 724.

Decided October 8, 1913.

Application of the Riverside Artesia Water Company to sell its water system to the city of Riverside for \$195,000.00 granted; provided, that city shall stipulate that said property is taken subject to all claims for water which might have been enforced against the Riverside Artesia Water Company.

H. L. Carnahan, for Riverside Artesia Water Company.

W. C. Irving, for City of Riverside.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application on the part of the Riverside Artesia Water Company to sell its entire domestic and irrigating water system to the city of Riverside for the sum of \$195,000.00. For a general statement of the conditions leading up to this sale and the betterments and improvements contemplated by the city of Riverside, reference is hereby made to the opinion in Application No. 716, Riverside Water Company, in which case the opinion and order were rendered to-day.

The Riverside Artesia Water Company has been serving some 837 domestic customers, of whom four are located outside of the city limits. It has also served water for irrigating some 400 acres of land within the city limits. The territory served by this company lies easterly of the tracks of the Atchison, Topeka and Santa Fe Railway Company, and constitutes the easterly portion of the city. The company desires to sell its entire property to the city of Riverside and thereupon to disincorporate and go out of business entirely.

The company owns some 162 inches of water flowing through Gage Canal, which water has been used for irrigation. Its domestic customers have been supplied from two artesian wells located within the city limits.

The engineers appointed by the city appraised the property of this company as being worth, in its depreciated condition, the sum of \$194,145.05. The sum did not include a house at the pumping station, which the city desired to buy with the remaining property. The city finally agreed to pay \$195,000.00, and the water company agreed to sell at that price. The water company had originally offered to sell for \$250,000.00.

As hereinbefore indicated, a few of the water company's customers live outside of the city limits. In this proceeding, as in Application No. 716, Riverside Water Company, the Commission's consent will be conditioned upon the filing by the city of a certified copy of a stipulation that the city takes the property subject to all legal claims which might have been enforced against the Riverside Artesia Water Company for water, including such claims as may exist in territory outside of the city limits of Riverside.

I find that the public convenience and necessity will be served by the sale by Riverside Artesia Water Company to the city of Riverside of the property to be sold as hereinbefore indicated, and recommend that the application of Riverside Artesia Water Company to sell said property be granted.

I submit herewith the following form of order:

ORDER.

Riverside Artesia Water Company having filed with this Commission its application for authority to sell to the city of Riverside for the sum of \$195,000.00 its entire irrigating and domestic water system, as more particularly described in the deed and bill of sale hereinafter referred to, and a public hearing having been held on said application, and the Commission finding that public convenience and necessity will be served by such sale of said property,

It is hereby ordered that Riverside Artesia Water Company is hereby authorized to sell to the city of Riverside for the sum of \$195,000.00 on the terms specified in the application in this proceeding its entire irrigating and domestic water system as more particularly described in the following deed and bill of sale, to wit:

1. Deed from Riverside Artesia Water Company to city of Riverside, dated July 1, 1913, and recorded on July 3, 1913, in Book 379 of Deeds at page 4, Records of Riverside County, California, conveying all the grantor's real property.

2. Bill of sale from Riverside Artesia Water Company to city of Riverside, dated July 1, 1913, on file among the official records of the city clerk of Riverside, conveying all the personal property intended to be conveyed, including tools, supplies on hand and equipment.

The authorization hereby given shall be operative only when the city of Riverside shall have filed with the Commission a certified copy of a stipulation to the effect that the city takes the property conveyed by the foregoing deed and bill of sale subject to all legal claims for water which might have been enforced against the Riverside Artesia Water Company, including such claims as may exist in territory outside of the city limits of Riverside.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1913.

DECISION No. 1003.

IN THE MATTER OF THE APPLICATION OF RIVERSIDE WATER COMPANY FOR AN ORDER AUTHORIZING IT TO SELL TO THE CITY OF RIVERSIDE A PORTION OF ITS WATER SYSTEM.

Application No. 716.

Decided October 8, 1913.

Application of Riverside Water Company to sell a portion of its water system serving the city of Riverside to said city for \$575,000.00, and to sell to said city for \$12,300.00 the right to develop water in the Garner Tract, granted; provided, that the city shall stipulate that said property is taken subject to all legal claims for water which might have been enforced against the Riverside Water Company.

W. A. Purington, for Riverside Water Company.

W. G. Irving, for City of Riverside.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is one of three applications made by three water companies to sell, and by the city of Riverside to purchase water systems or portions of water systems used in whole or in part to supply water to the inhabitants of the city of Riverside. The other applications are No. 723, Henry P. Kyes, and No. 724, Riverside Artesia Water Company. These applications will be considered in detail in the opinion in each proceeding.

For more than a year the city of Riverside has been negotiating with the Riverside Water Company, the Riverside Artesia Water Company and Henry P. Kyes for the purchase of their water distributing systems within the city limits and certain of their property outside of the city limits, as will hereinafter appear in greater detail. The city employed competent engineers to appraise each of these systems, in so far as the city contemplated the purchase thereof. After these appraisals had been made, agreements were entered into between the city and each of these water companies, by which the city was given options to purchase at prices specified in the respective agreements. On May 17, 1913, at a special election, the electors of Riverside voted five per cent bonds in the total amount of \$1,160,000.00 for the purpose of acquiring designated portions of these three water systems and of making certain improvements and extensions, as will hereinafter appear. The city paid the prices respectively agreed upon to each of these three com-

panies, received deeds from the companies, and is now in possession of the property. Under the provisions of section 51 of the Public Utilities Act, this Commission's consent must be secured before the title to these properties may legally be conveyed from the respective water companies to the city. The three proceedings hereinbefore referred to were brought to secure this consent.

Mr. W. L. Peters, mayor of Riverside, testified that the city still has on hand bonds of the face value of \$342,000.00, the proceeds whereof will be used to make certain improvements and extensions to the water systems purchased by the city. The city, among other improvements, intends to build a pipe line to connect the present supply with a proposed new supply, to build a new reservoir, having a capacity of 3,000,000 gallons, to improve the present fire protection system, to supply with water a considerable section of the town situated on high lands, and at present supplied by no water system, to increase the size of existing mains, and to give an improved service to the villages of Arlington and Casa Blanca. It is evident that as a result of the purchase of the existing water systems by the city and the completion of the contemplated improvements the water situation in Riverside will be materially improved.

The Riverside Water Company owns an irrigating system and also a separate domestic system through which latter system it has supplied the major portion of the city of Riverside. The property purchased by the city is the so-called domestic system, consisting of a distributing system within the city, certain water-bearing lands located in the county of San Bernardino, the right to take water from designated lands, two main pipe lines leading from the source of water supply to the city and other property, all of which is described in two certain deeds and a bill of sale from the Riverside Water Company to the city of Riverside, to which reference will be made in the order. Reference will also be made in the order to a fourth conveyance by which the Riverside Water Company conveyed to the city of Riverside the right to develop water on what is known as the Garner Tract, in San Bernardino County. The water company protects the city during certain months for the period of five years to the extent of an average daily flow of 500 miner's inches measured under a four-inch pressure. The water company is to retain all of its property except that which it deeds to the city and to continue to operate it to supply water for irrigation.

The valuation fixed by the city's engineers for that portion of the property of the water company which the city desired to acquire was, in its depreciated condition, the sum of \$596,300.00. The price agreed upon and for which the property was finally sold was \$575,000.00.

It appears that a portion of the system which the city has acquired

DECISION No. 1003.

IN THE MATTER OF THE APPLICATION OF RIVERSIDE WATER COMPANY FOR AN ORDER AUTHORIZING IT TO SELL TO THE CITY OF RIVERSIDE A PORTION OF ITS WATER SYSTEM.

Application No. 716.

Decided October 8, 1913.

Application of Riverside Water Company to sell a portion of its water system serving the city of Riverside to said city for \$575,000.00, and to sell to said city for \$12,300.00 the right to develop water in the Garner Tract, granted; provided, that the city shall stipulate that said property is taken subject to all legal claims for water which might have been enforced against the Riverside Water Company.

W. A. Purington, for Riverside Water Company.

W. G. Irving, for City of Riverside.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is one of three applications made by three water companies to sell, and by the city of Riverside to purchase water systems or portions of water systems used in whole or in part to supply water to the inhabitants of the city of Riverside. The other applications are No. 723, Henry P. Kyes, and No. 724, Riverside Artesia Water Company. These applications will be considered in detail in the opinion in each proceeding.

For more than a year the city of Riverside has been negotiating with the Riverside Water Company, the Riverside Artesia Water Company and Henry P. Kyes for the purchase of their water distributing systems within the city limits and certain of their property outside of the city limits, as will hereinafter appear in greater detail. The city employed competent engineers to appraise each of these systems, in so far as the city contemplated the purchase thereof. After these appraisals had been made, agreements were entered into between the city and each of these water companies, by which the city was given options to purchase at prices specified in the respective agreements. On May 17, 1913, at a special election, the electors of Riverside voted five per cent bonds in the total amount of \$1,160,000.00 for the purpose of acquiring designated portions of these three water systems and of making certain improvements and extensions, as will hereinafter appear. The city paid the prices respectively agreed upon to each of these three com-

panies, received deeds from the companies, and is now in possession of the property. Under the provisions of section 51 of the Public Utilities Act, this Commission's consent must be secured before the title to these properties may legally be conveyed from the respective water companies to the city. The three proceedings hereinbefore referred to were brought to secure this consent.

Mr. W. L. Peters, mayor of Riverside, testified that the city still has on hand bonds of the face value of \$342,000.00, the proceeds whereof will be used to make certain improvements and extensions to the water systems purchased by the city. The city, among other improvements, intends to build a pipe line to connect the present supply with a proposed new supply, to build a new reservoir, having a capacity of 3,000,000 gallons, to improve the present fire protection system, to supply with water a considerable section of the town situated on high lands, and at present supplied by no water system, to increase the size of existing mains, and to give an improved service to the villages of Arlington and Casa Blanca. It is evident that as a result of the purchase of the existing water systems by the city and the completion of the contemplated improvements the water situation in Riverside will be materially improved.

The Riverside Water Company owns an irrigating system and also a separate domestic system through which latter system it has supplied the major portion of the city of Riverside. The property purchased by the city is the so-called domestic system, consisting of a distributing system within the city, certain water-bearing lands located in the county of San Bernardino, the right to take water from designated lands, two main pipe lines leading from the source of water supply to the city and other property, all of which is described in two certain deeds and a bill of sale from the Riverside Water Company to the city of Riverside, to which reference will be made in the order. Reference will also be made in the order to a fourth conveyance by which the Riverside Water Company conveyed to the city of Riverside the right to develop water on what is known as the Garner Tract, in San Bernardino County. The water company protects the city during certain months for the period of five years to the extent of an average daily flow of 500 miner's inches measured under a four-inch pressure. The water company is to retain all of its property except that which it deeds to the city and to continue to operate it to supply water for irrigation.

The valuation fixed by the city's engineers for that portion of the property of the water company which the city desired to acquire was, in its depreciated condition, the sum of \$596,300.00. The price agreed upon and for which the property was finally sold was \$575,000.00.

It appears that a portion of the system which the city has acquired

is devoted to serving domestic water outside of the city limits, and that the city intends to continue to serve these people. As is usual in cases of this kind, this Commission's approval to the sale will be conditioned upon the entry by the city of Riverside into a stipulation and the filing of a certified copy thereof with this Commission, to the effect that the city takes the property subject to all legal claims for water which might have been enforced against the Riverside Water Company, including such claims as may exist in territory outside of the city limits of Riverside. Upon the filing of a certified copy of such stipulation the consent given in the order which follows this opinion will be complete and effective.

I find that the public convenience and necessity will be served by the sale by Riverside Water Company to the city of Riverside of the property to be sold as hereinbefore indicated, and recommend that the application of the Riverside Water Company to sell said property be granted.

I submit herewith the following form of order:

ORDER.

Riverside Water Company having filed with this Commission its application for authority to sell to the city of Riverside for the sum of \$575,000.00 that portion of its water system which is described in the deeds and the bill of sale hereinafter referred to, and also to sell to the city of Riverside for the sum of \$12,300.00 the right to develop water on what is known as the Garner Tract, in San Bernardino County, as will appear from the deed last hereinafter referred to, and a public hearing having been held on said application, and the Commission finding that public convenience and necessity will be served by such sale of said property,

It is hereby ordered that Riverside Water Company is hereby authorized to sell to the city of Riverside on the terms specified in the application in this proceeding those portions of its water system which are described in the following deeds and bill of sale, to wit:

1. Deed from Riverside Water Company to city of Riverside, dated June 16, 1913, and recorded on the same day in Book 377 of Deeds, at page 157, Records of Riverside County, California, conveying that portion of the real property intended to be conveyed which is located in Riverside County.

2. Deed from Riverside Water Company to city of Riverside, dated June 16, 1913, and recorded on the same day in Book 531 of Deeds, at page 81, Records of San Bernardino County, California, conveying that portion of the real property intended to be conveyed which is located in San Bernardino County.

3. Bill of sale from Riverside Water Company to city of Riverside, dated June 16, 1913, on file among the official records of the city clerk

of Riverside, conveying all the personal property intended to be conveyed, including tools, stock on hand, vehicles and equipment.

4. Deed from Riverside Water Company to city of Riverside, dated July 2, 1913, and recorded on July 15, 1913, in Book 529 of Deeds, at page 356, Records of San Bernardino County, California, conveying the right to develop water on a thirty-acre tract of land known as the Garner Tract, adjacent to what is known as the Cooley Tract, in San Bernardino County.

The authorization hereby given shall be operative only when the city of Riverside shall have filed with this Commission a certified copy of a stipulation to the effect that the city takes the property conveyed by the foregoing deeds and bill of sale subject to all legal claims for water which might have been enforced against the Riverside Water Company, including such claims as may exist in territory outside of the city limits of Riverside.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1913.

DECISION No. 1004.

IN THE MATTER OF THE APPLICATION OF HENRY P. KYES
FOR AN ORDER AUTHORIZING THE SALE BY HIM TO
THE CITY OF RIVERSIDE OF A PORTION OF HIS WATER
SYSTEM.

Application No. 723.

Decided October 8, 1913.

Application of Henry P. Kyes to sell the major portion of his water system to the city of Riverside for \$15,000.00, granted; provided, that the city of Riverside shall stipulate that said property is taken subject to all legal claims for water, with certain specified exceptions, which might have been enforced against the former owner.

Henry L. Carnahan, for Applicant.

W. G. Irving, for City of Riverside.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application on the part of Henry P. Kyes, a water utility, to sell to the city of Riverside for the sum of \$15,000.00 the major

portion of his water system, lying partly within and partly outside of the limits of the city of Riverside. For a general statement of the conditions leading up to this sale as well as the sale by the Riverside Water Company and the Riverside Artesia Water Company see the opinion in Application No. 716, Riverside Water Company.

Henry P. Kyes owns a small water system serving a few customers both within and outside of the city limits, from wells located outside of the city limits.

Mr. Kyes has agreed to sell, and the city to buy for the sum of \$15,000.00, the major portion of his water system. The property is accurately described in the deed and bill of sale which will be referred to in the order herein. The engineers employed by the city reported a value in its depreciated condition of \$13,362.75 for the property which the city desired to purchase. The city then decided to buy the ten acres on which the pumping plants are located instead of only one lot, and to pay \$15,000.00, which price was agreed to by Mr. Kyes.

Mr. Kyes and Mr. P. L. Kyes also waived their right to demand irrigating water from the city for their present property located within the city limits, and it was agreed that Mr. Kyes would continue to serve the land of E. M. Sheffield for all purposes, and that the city should not be obligated to serve this land. In this proceeding, as in Application No. 716, Riverside Water Company, and Application No. 723, Riverside Artesia Water Company, the Commission's consent will be conditioned upon the filing by the city of a certified copy of a stipulation that the city takes the property subject to all legal claims which might have been enforced against Henry P. Kyes for water, including such claims as may exist in territory outside of the city limits, except as heretofore in this paragraph indicated.

I find that the public convenience and necessity will be served by the sale by Henry P. Kyes to the city of Riverside of the property to be sold as hereinafter indicated, and recommend that the application of Henry P. Kyes to sell said property be granted.

I submit herewith the following form of order:

ORDER.

Henry P. Kyes, a water utility, having filed with this Commission his application for authority to sell to the city of Riverside, for the sum of \$15,000.00, that portion of his irrigating and domestic water system which is described in the deed and bill of sale hereinafter referred to, and a public hearing having been held on said application, and the Commission finding that public convenience and necessity will be served by such sale of said property,

It is hereby ordered that Henry P. Kyes, a water utility, is hereby authorized to sell to the city of Riverside for the sum of \$15,000.00, on

the terms specified in the application in this proceeding, that portion of his irrigating and domestic water system which is more particularly described in the following deed and bill of sale, to wit:

1. Deed from Henry P. Kyes and Lizzie R. Kyes, his wife, to city of Riverside, dated July 1, 1913, and recorded on July 19, 1913, in Book 378 of Deeds, at page 35, Records of Riverside County, California, conveying the real property intended to be conveyed.

2. Bill of sale from Henry P. Kyes to city of Riverside, dated July 1, 1913, on file among the official records of the city clerk of Riverside, conveying all the personal property intended to be conveyed, being certain tools.

The authorization hereby given shall be operative only when the city of Riverside shall have filed with this Commission a certified copy of a stipulation to the effect that the city takes the property conveyed by the foregoing deed and bill of sale subject to all legal claims for water which might have been enforced against Henry P. Kyes, a water utility, including such claims as may exist in territory outside of the city limits of Riverside, provided that the city shall not be obligated to supply water to the premises of E. M. Sheffield, or irrigating water to the present premises of Henry P. Kyes and P. L. Kyes within the city of Riverside.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1913.

DECISION No. 1005.

IN THE MATTER OF THE APPLICATION OF HEMET-SAN JACINTO GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THREE THOUSAND DOLLARS.

Application No. 769.

Decided October 8, 1913.

Applicant authorized to issue bonds of the face value of \$3,000.00 to be sold at not less than 82½; proceeds to be used to pay for the purchase and installation of certain machinery.

A. A. Caldwell, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue six bonds of the face value of \$500.00 each, bearing interest at the rate of 6 per cent per annum. Applicant has heretofore issued its bonds of the face value of \$22,000.00 out of a total authorized issue of \$25,000.00. The bonds which applicant now desires to issue consequently represent all the unissued bonds of those heretofore authorized.

Applicant is engaged in the sale of artificial gas in the towns of Hemet and San Jacinto in Riverside County, California. It claims to have a monthly revenue of \$750.00 per month and operating expenses, not including interest or depreciation, of \$500.00, leaving \$250.00 per month for interest, depreciation and profit. The interest charge on the outstanding bonds and certain notes is not in excess of \$1,500.00 per year, or \$125.00 per month.

Applicant's capital stock consists of 100,000 shares of the par value of \$1.00 each, of which 42,878 shares have been issued. Applicant has two notes outstanding in the amounts of \$357.80 and \$1,700.00, respectively, bearing interest at the rate of 7 per cent per annum. It owes about \$1,800.00 on open account.

On January 1, 1913, applicant valued its physical property at \$29,762.00. Subsequent to that date it has expended \$4,950.00 on capital account, so that on this basis its property would be worth between \$34,000.00 and \$35,000.00. Applicant's secretary estimates, on the basis of about \$128.00 per consumer, that the property is worth in the neighborhood of \$45,000.00. It becomes unnecessary in this proceeding to determine the exact value of the property for the reason that on either basis the value is sufficiently large to create the necessary margin between such value and the total bonds, including those which it is now desired to issue.

Applicant desires to use the proceeds from the sale of the bonds which it now desires to issue as follows:

(a) To pay for the installation of new machinery heretofore installed, \$2,000.00, as follows:

| | |
|----------------------------|------------|
| One generator ----- | \$1,500 00 |
| One purifier ----- | 300 00 |
| One governor ----- | 10 00 |
| Cement work for same ----- | 5 00 |
| Cement work at plant ----- | 185 00 |
| | <hr/> |
| | \$2,000 00 |

(b) To pay the balance of the proceeds, as far as they will go, on an automobile which cost \$550.00 and which is necessary in the conduct of applicant's business between the two towns in which it operates.

Applicant did not fix a price at which it thinks it can sell the bonds. Certain of its bonds were recently sold at 66½ per cent of par, but applicant's secretary believes that they are now worth considerably more than that figure, and I am convinced that such is the case. Applicant may be able to secure up to 85 for the bonds. I think applicant should have some leeway, particularly in view of the present condition of the money market, and hence recommend that the Commission prescribe the minimum sale price of 82½ per cent of face value plus accrued interest.

I find that the proceeds to be secured from the sale of the bonds herein authorized are not properly chargeable to operating expenses or to income and submit herewith the following form of order:

ORDER.

Hemet-San Jacinto Gas Company having applied to the Railroad Commission for an order authorizing the issue by said company of six bonds of the face value of five hundred (\$500.00) dollars each, bearing interest at the rate of six (6%) per cent per annum and the application of the proceeds thereof to the purposes hereinafter specified, and a public hearing having been held upon said application and the Railroad Commission finding that the purposes to which the proceeds from the sale of said bonds are to be applied are not in whole or in part properly chargeable to operating expenses or to income,

It is hereby ordered that Hemet-San Jacinto Gas Company be and the same is hereby authorized to issue six bonds of the face value of five hundred (\$500.00) dollars each, numbered 45 to 50, inclusive, bearing interest at the rate of six (6%) per cent per annum payable semiannually, due on the 1st day of January, 1927, and secured by a deed of trust or mortgage to F. P. Morrison covering all the property of the company, on the following conditions and not otherwise, to wit:

(1) Hemet-San Jacinto Gas Company shall sell said bonds so as to net said company not less than eighty-two and one half (82½%) per cent of their face value plus accrued interest.

2. Hemet-San Jacinto Gas Company shall use the proceeds of said bonds only for the following purposes:

(a) To pay for machinery heretofore purchased and the installation thereof as follows:

| | |
|---------------------------|------------|
| One generator | \$1,500 00 |
| One purifier | 300 00 |
| One governor | 10 00 |
| Cement work for same..... | 5 00 |
| Cement work at plant..... | 185 00 |
| | <hr/> |
| | \$2,000 00 |

(b) To pay the balance of the proceeds, in so far as they will go, on an automobile which cost said company the sum of five hundred and fifty (\$550.00) dollars, which automobile is necessary in the conduct of the company's business.

3. Hemet-San Jacinto Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

4. The authority granted by this order shall apply only to bonds issued prior to April 1, 1914.

5. The authority granted by this order shall become effective only when applicant has paid the fee specified by section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1913.

Decisions Nos. 1006 and 1007, grade crossings; not printed. See end of volume.

DECISION No. 1008.

CITY OF SAN JOSE

vs.

PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 387.

Decided October 9, 1913.

Held, Practice of telephone company in requiring deposit before installing telephone is unjust, unreasonable and discriminatory.

Held, Rates complained of in San Jose exchange area are unjust and unreasonable. Rates fixed by Commission ordered into effect in San Jose, Santa Clara, Sunnyvale and Campbell exchanges.

Held, That a 6½ per cent depreciation fund is too great; a depreciation fund of 5½ per cent is allowed until such time as this amount is shown to be too high or too low.

Held, Payment of 4½ per cent of gross revenue to American Telephone and Telegraph Company is excessive and not proper expenditure; this charge must be limited to the lowest fair value of the service actually rendered by the American Company.

John W. Sullivan, for Complainants.

Pillsbury, Madison & Sutro and Felix T. Smith, for Defendant.

B. S. Crittenden, for Councilman F. R. Husted.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

The city of San Jose filed this complaint on the 8th day of April, 1913. Thereafter on the 29th day of May the hearing was held and subsequently on the 14th and 15th of July and the final testimony in the case was presented on the 16th day of September. Time was asked within which to file briefs, which time expired on the 1st day of October, and the case is now ready for determination.

The rates and service within what is known as the San Jose exchange area are brought in question. This Commission at the time of the hearing and submission of the case had no jurisdiction over public utility rates within the city of San Jose proper, yet it is the position of the defendant that this Commission has jurisdiction over all matters affecting its exchange area because of the fact that the service is not confined to the limits of the city of San Jose, but covers an extensive territory surrounding that city both incorporated and unincorporated. Since the submission of this case, by vote of the citizens of the city of San Jose, all authority over all utilities heretofore possessed by the city of San Jose has been vested in this Commission. Any questions of law involving the jurisdiction of this Commission, however, are not presented in this case because all parties having agreed that this Commission has jurisdiction to dispose of the facts raised by the complaint herein I feel quite sure such questions of jurisdiction could not be consistently raised in any other tribunal.

The city makes the following charge respecting the rates and service of the defendant within the San Jose exchange limits:

"That said defendant is now, and for a long time last past, has been, charging is patrons and customers for telephonic service over its lines, between points within said city of San Jose, and points without said city, and within the territory served through its exchange, or office, in said city of San Jose, as hereinafter set forth, and for rentals of phones for such service, the following rates, to wit:

First—For 1-party line, unlimited business service, desk or wall equipment, \$5.00 per month.

Second—For 2-party line, unlimited business service, desk or wall equipment, \$3.50 per month.

Third—For 1-party line, unlimited residence service, desk or wall equipment, \$3.00 per month.

Fourth—For 2-party line, unlimited residence service, wall equipment, \$2.25 per month, with additional charge of \$.25 per month for desk equipment.

Fifth—For 4-party line, unlimited residence service, wall equipment, \$1.50 per month, with additional charge of \$.25 per month for desk equipment.

"That said rates and charges are, and each of them is, unjust and unreasonable, and in violation of section 13, article II, of the 'Public Utilities Act.'

"That said defendant charges its patrons and customers an extra toll of five cents per minute for telephonic service over its lines from points within said city of San Jose, to the community of Saratoga, without said city of San Jose, and in said Santa Clara; and furnishes such service over its lines from points within said community of Saratoga to said city of San Jose, without such extra charge.

"That said extra charge last above mentioned is unjust and unreasonable, and is an unlawful and unreasonable preference and discrimination between said two localities, and in violation of section 13, article II, and of section 19, article II, of the 'Public Utilities Act.'

"That all telephonic service supplied by said defendant for that portion of said Santa Clara County, extending to the station or community of Coyote, on the south, and Mt. Hamilton on the east, Milpitas on the northeast, Sunnyvale on the north, Saratoga on the west, and Campbell on the southwest, and including all towns and territory within said limits, is supplied through the main office or exchange of said defendant at said city of San Jose; and the plant, lines, and equipment used for service within the city of San Jose is the same used for service from said city of San Jose to points outside said city, and within said territory so served by said San Jose exchange.

"That said defendant requires all rentals, tolls and charges due it for service within said territory served by said San Jose exchange, to be paid at its office at the said city of San Jose; which requirement is unjust and unreasonable, and in violation of subdivision 'C,' of section 13, article II, of the 'Public Utilities Act.'

"That said defendant requires of certain of its subscribers and patrons, within said territory, a cash deposit for the installation of telephone service; which requirement is unjust and unreasonable, and in violation of subdivision 'C,' of section 13, article II, of the 'Public Utilities Act'; and is unjust, and an unreasonable discrimination, and in violation of section 19, article II, of the 'Public Utilities Act.'

"That said defendant furnishes a 4-party line service within a part of said territory, and refuses to furnish such service in other parts of said territory; which action or regulation is unjust, unreasonable and in violation of subdivision 'C,' section 13, and of section 19, of the 'Public Utilities Act.'

"That said defendant requires from its patrons or subscribers within said territory, the payment of all rentals one month in advance of such rental service; which requirement is unjust and unreasonable, and in violation of section 19 of the 'Public Utilities Act.'

"That in divers instances, within said territory, said defendant has a greater number of subscribers connected with a party line,

and being served through the same, than is called for by the service subscribed for by such subscribers, and for which they are charged; which action, on the part of said defendant, is unjust, unreasonable, and in violation of sections 13 and 19 of the 'Public Utilities Act.'

"That said defendant refuses to furnish party-line service in said territory, with any greater number of subscribers to 1-party line, than four; which is unjust, unreasonable, inefficient and inadequate, and in violation of subdivision 'b,' section 13, of the 'Public Utilities Act.'

"That said defendant is furnishing to certain of its patrons and subscribers within said territory, exclusive, or 1-party line service for the price or charge regularly made by defendant for 4-party line service, and thereby making and granting to such subscribers a preference and advantage; which is unjust and unreasonable, and in violation of section 19, of the 'Public Utilities Act.' "

At the first hearing upon this complaint, testimony of a general nature was taken and various complaints of the subscribers within the exchange area presented. These complaints, however, do not deal with the reasonableness *per se* of the rates and practices of this defendant and it was necessary for the experts of this Commission to make an investigation of the property values and the rate conditions in this exchange area, which reports were presented in evidence together with the reports furnished by the defendant, and the record presents evidence upon all of the material allegations contained in the complaint.

Prior to the filing of this complaint with the Commission the telephone company had submitted to the city council of San Jose a plant and property statement. At the hearing, however, this company asked permission to file statements differing from its statements theretofore presented to the city council of San Jose. While this Commission has a right to follow the general rule respecting admissions by a public utility before it, yet in this case I feel that it is not necessary to consider the previous statements filed by the telephone company because the statements filed before this Commission have been the subject of careful investigation by our Engineering Department, and I believe a decision in this case can justly be made on the evidence submitted formally in this case.

Heretofore it has been the practice of this telephone company to apportion 15 per cent of its receipts from originating tolls to the exchange in which such tolls originated. In the proceedings had in Application No. 2 the defendant has admitted that such 15 per cent is inadequate and has agreed to a 30 per cent apportionment of originating tolls. The statement of the earnings and expenses filed by the company's general auditor for the year 1912, however, shows the

segregations on a 15 per cent basis. These earnings and expenses are as follows:

| SAN JOSE EXCHANGE. | |
|--|--------------|
| <i>Earnings.</i> | |
| Exchange revenue ----- | \$185,775 00 |
| Toll revenue ----- | 11,215 43 |
| Total ----- | \$196,990 43 |
| <i>Expenses.</i> | |
| Operation ----- | \$76,834 20 |
| Maintenance (inclusive of repairs, station removals and changes and depreciation) ----- | 67,989 88 |
| Taxes ----- | 5,783 69 |
| | 150,607 77 |
| Net revenue ----- | \$46,382 66 |
| Adding to this the 15 per cent additional from the toll revenue amounting to ----- | 11,215 43 |
| We have a total net revenue of ----- | \$57,598 09 |

| SAN JOSE AREA. | |
|--|--------------|
| <i>Earnings.</i> | |
| Exchange revenue ----- | \$204,660 36 |
| Toll revenue (15 per cent of originating tolls) ----- | 12,370 36 |
| Total ----- | \$217,030 72 |
| <i>Expenses.</i> | |
| Operation ----- | \$86,572 56 |
| Maintenance (inclusive of repairs, station removals and changes and depreciation) ----- | 73,967 81 |
| Taxes ----- | 6,433 91 |
| | 166,973 28 |
| Net revenue ----- | \$50,052 44 |
| Add 15 per cent to toll revenue ----- | 12,370 36 |
| Total net revenue ----- | \$62,422 80 |

In its property statement the company includes an item of \$26,892.00, which represents the value which it places upon the building owned by it but not now in use in which its offices have heretofore been located. It is shown that this building at present has absolutely no place in the operations of this company. It is urged, however, that this valuation should be allowed because the company has not yet disposed of this building and until it does so it should be allowed an earning thereon. I shall defer the discussion of this item until I have completed the summaries which I desire to give at this place, but shall deduct it from the totals which have been presented by the telephone company and by the engineer of the Commission for the purpose of the comparisons which I shall now make. In these comparisons I shall also present the values submitted by the company to the city authorities of San Jose for the purpose of fixing rates just subsequent to the filing of the complaint in this case.

I. SAN JOSE EXCHANGE.*Plant and Property Statement, year 1912, prorated on a percentage basis.*

| | |
|--|--------------|
| Inclusive of real estate, plant equipment, office furniture and fixtures, tools, vehicles and supplies | \$773,981 08 |
| Deduct value of building and real estate not in use for operative purposes | 26,892 00 |
| Net value | \$747,089 08 |

SAN JOSE AREA.

| | |
|--|--------------|
| Total | \$825,721 23 |
| Deduct value of building and real estate not in use for operative purposes | 26,892 00 |
| Net value | \$798,829 23 |

II. SAN JOSE EXCHANGE.*Plant Investment on basis of reproduction cost new as of July 1, 1912, as per revised inventory of the telephone company filed with the Commission on July 9, 1913.*

| | |
|--|--------------|
| Inclusive of real estate, plant equipment, office furniture and fixtures, tools, vehicles and supplies | \$849,934 71 |
| Deduct value of building and real estate not in use for operative purposes | 26,892 00 |
| Net value | \$822,042 71 |

SAN JOSE AREA.

| | |
|--|--------------|
| Total | \$904,099 73 |
| Deduct value of building and real estate not in use for operative purposes | 26,892 00 |
| Net value | \$877,207 73 |

III. SAN JOSE EXCHANGE.*Plant Investment based upon reproduction cost new as of July 1, 1912, as shown in Engineering Department's report (exclusive of inoperative property, \$26,892.00).*

| | |
|-----------------------|--------------|
| Total | \$772,794 00 |
| SAN JOSE AREA. | |
| Total | \$823,995 00 |

Taking these figures as they stand, and assuming their correctness, it would appear that we have the following rates of return based upon the various valuations:

SAN JOSE EXCHANGE.

| | |
|----------------------------------|--------------|
| Under present rates, net revenue | \$57,598 09 |
| Net return of 7.7 per cent on | \$747,089 08 |
| Net return of 7.0 per cent on | 822,042 71 |
| Net return of 7.45 per cent on | 772,794 00 |

SAN JOSE AREA.

| | |
|----------------------------------|--------------|
| Under present rates, net revenue | \$62,422 80 |
| Net return of 7.8 per cent on | \$798,829 23 |
| Net return of 7.1 per cent on | 877,207 73 |
| Net return of 7.57 per cent on | 823,995 00 |

In addition to the non-operative property included by the defendant in its appraisals the Commission's engineer took issue with the engineers

of the telephone company on several other questions involved in the appraisal, and in addition thereto the Auditing Department of this Commission questioned the depreciation fund of $6\frac{1}{2}$ per cent, and likewise the item of $4\frac{1}{2}$ per cent of gross revenue paid to the American Bell Telephone Company for certain services. Any deduction from these last two items, of course, will result in a corresponding increase in the net revenue of the defendant here in question. Before discussing these last two items, however, I shall take up in detail those matters wherein the engineers of the telephone company and the engineer of this Commission differ. They are:

1. The old exchange building now not used for operative purposes.
2. Cost of the new building.
3. Central office equipment.
4. Conduits under pavements laid, since such conduits were put in.
5. Inclusion in labor cost going into capital account of amounts properly chargeable to maintenance.
6. Method of arriving at present value.

1. *The old exchange building now not used for operative purposes.*

The company, as heretofore pointed out, places a value of \$26,892.00 on its old exchange building which is now no longer in use. Counsel for defendant says that this building is admittedly non-operative property, but that it has not been able to dispose of it at a reasonable figure up to the present time. It is urged that inasmuch as the company expects to sell this building at the earliest opportunity that it should be allowed to earn on the money invested therein and failure to permit such earning will in effect penalize the company for its willingness to enlarge its plant so as to provide facilities for serving the public adequately. I do not believe there is much force in this argument. While I do not question the good faith of the company's statement that it intends to sell this property as soon as possible, yet the Commission can not admit that non-operative property adds to the value of the property devoted to the public use. Such an admission would make all kinds of abuses possible and I do not believe either the law or equity requires an allowance for such an item and shall eliminate it from further consideration.

2. *Cost of new building.*

The cost price of \$58,000.00 appearing in the appraisal of the Commission's engineer was taken from the figures submitted by the company. It now appears that the actual price paid the contractor was \$60,259.16. The company contends for a value of \$68,894.32. It is urged that the indirect expenses necessarily involved and the fact that the contractor lost money on the job warrant this valuation. As the

building is new, in the absence of more persuasive evidence than has been presented, I am of the opinion that it would be proper to allow the actual amount of \$60,259.16 as the cost of reproducing this building.

3. *Central office equipment.*

There is a difference between the Commission's engineer and the engineers for the defendant in this item of \$1,843.59. The engineer for the Commission accepts the figures of the auditor showing the actual indirect expense involved in this item, while the engineers for the defendant has made an estimate as to what such indirect expense should be. The difference is \$1,843.59, and I believe the figures showing the actual indirect expense are more reliable than those showing an estimated indirect expense.

4. *Paving.*

The Commission's engineer has disallowed the sum of \$4,639.00 which is represented by the laying of conduits under pavement in the estimates of the engineers of the defendant where the evidence shows that no pavements existed at the time the conduits were put in. This difference of opinion between the engineer of the Commission and the telephone company illustrates very forcibly the confusion which apparently exists in the minds of both the courts and the engineers between cost and value. Counsel for the telephone company seriously contends that the putting of pavements above conduits after they are laid represents an appreciation in the *value* of the property. Of course such is not the case, but when this condition exists it certainly is true that the cost to reproduce the property in its present condition would be more than the actual cost incurred in the original production of such property. If cost of reproduction is to be the basis upon which rates shall be computed the engineer of the Commission, in my opinion, in this regard is wrong; while if value is to be considered as the courts have suggested, the engineers of the telephone company are wrong. As I suggested in Application No. 118, value as ordinarily conceived can not be used as a basis for fixing rates of a public utility, because the ordinary conception of value is that for which anything will sell, which of course is largely determined by the earning power of the agency in question. Cost of reproduction of a property is to be considered merely because it serves as an indication of what has been invested in the property, and not what the property is worth, as worth is generally understood. But holding the view that cost more largely determines the basis upon which rates shall be fixed I can not reject the other elements which the courts have said we must consider, and do not propose to do so. Neither does this drive me to the conclusion which counsel for defendant reaches, that if we take cost as a basis upon which rates shall be fixed no depreciation should be allowed. I am somewhat surprised that this should be urged

seriously by the able counsel for this company. I believe it is just and equitable to allow a public utility a reasonable return upon the money wisely invested in a well conceived public utility, but to grant counsel's conclusion as being correct means that a utility could permit its property to wear out entirely and still be entitled to the same rates as though it were kept in first-class condition. The source of the funds for producing a public utility property and for taking care of depreciation in such property is and should be entirely different. The former should come from the owner of the utility; the latter should be taken care of out of rates. In other words, investment in a utility upon which the owner of such utility should be permitted to earn, is an investment in what is ordinarily called capital account. I am aware that this confusion exists if not in the minds at least in the practices of most public utilities. Under the latest decisions of the Supreme Court of the United States the present value of the property is to be considered in fixing rates and this means, as the court has said, the property in its present condition of depreciation. If, as the evidence shows here, the property of the telephone company has depreciated 15 per cent on the average, then that amount should be deducted from the sum otherwise found as representing the value of the property to secure its present value, and while the investment of the company will be 100 per cent the property will be 85 per cent. The difference, however, in this case is taken care of in a depreciation reserve. In all cases in order to preserve the investment in a utility intact the percentage which the present condition of the property represents to its condition new plus the percentage represented by the depreciation reserve should always be equal to 100 per cent. In short, as I have already suggested, the investment is maintained intact from a sufficient surplus in the rates over that which is necessary to maintain the property and take care of the fixed charges. This company recognizes this fact and strenuously contends for its right to set aside $6\frac{1}{2}$ per cent of the gross annually to take care of depreciation. While the engineer of the Commission approves of this practice he insists that the percentage is too high in that it is producing a sum considerably in excess of the amount necessary to take care of depreciation. This will be discussed, however, in another portion of this opinion.

Therefore, I do not believe that items such as this should be allowed under any theory of rate making, but I do believe that they should appear in an engineer's cost of reproduction, which, as I have already said, does not lead me to conclude that items such as this should be allowed in making up the amount upon which earnings shall be permitted. Suppose we are considering a public utility, as is often the case, where the condition under which the original expenditure was made is not known. With reference to such utility we attempt to reproduce

cost conditions by getting the cost to reproduce the property in its present condition and deduct therefrom such amounts as are found to be necessary by reason of depreciation in property and to get thereby what the engineers call "present value," which is not value at all but which has as its primary conception cost. Such present value is often misleading and does not reproduce the actual conditions we are seeking to reproduce because of the very fact, as illustrated by this dispute between the engineers here, that estimated conditions of original construction are reached and not actual conditions.

My disposition is to disallow this item, but I do so neither on the theory of the company nor our own Engineering Department, for the reasons hereinbefore just discussed.

5. *Inclusion in labor cost going into capital account of amounts properly chargeable to maintenance.*

The defendant urges that it is not right to eliminate these items because other items that were checked in the company's statement were found to be correct. The testimony of the Commission's engineer is that only those items which from an inspection appear to be excessive were investigated, and that the amounts eliminated were eliminated from the excessive items only.

6. *Method of arriving at present value.*

The difference of opinion between the engineers here is due not to different theories but to different application of such theories. It is urged by the defendant that the experience upon which the Commission's engineer bases his conclusion covers too short a period to be determinative of the proper amount of depreciation. It is urged that a certain amount in addition to that which the history of a utility shows has been lost by depreciation should be added as an insurance against calamity, obsolescence, etc. The cases of a great thaw in Portland causing the company \$100,000.00 loss and the necessity of moving many miles of line on the right of way of the Northern Pacific Railway are cited as illustrating the necessity for a fund in the depreciation account in excess of that which the annual deterioration of the property would represent. I agree entirely with the theory of the defendant, but I am of the opinion that if sufficient time is taken over which depreciation is observed and within which time, under the theory of probabilities the average amount of calamity and obsolescence will occur, that the percentage thus obtained should be reasonably constant.

It is useless to urge that we can reach an exact conclusion as to the amount of depreciation to set aside annually, but we should attempt to determine this matter with sufficient accuracy to render justice to the utility, while at the same time not being so liberal as to put an unwarranted burden upon the rate payer of any particular year.

I will now consider the two items also questioned by the Auditing Department of the Commission. They are:

1. Excessive allowance for depreciation; and
2. Payment of $4\frac{1}{2}$ per cent of the gross earnings to the American Telephone and Telegraph Company.

1. *Allowance for depreciation.*

I have already discussed certain aspects of this question in dealing with the engineering matters here under dispute. Both the engineer and auditor of the Commission are of the opinion that $6\frac{1}{2}$ per cent set aside annually for depreciation is excessive. It is in evidence that within a very few years an amount has been produced from the $6\frac{1}{2}$ per cent depreciation fund which shows that the percentage is excessive. The witnesses reach this conclusion by the following method of reasoning. As already pointed out herein, the amount in the depreciation fund should in a matured utility be sufficient to cover the amount represented by depreciation which is not taken care of annually. It is a well known fact that in a going utility after a certain amount of depreciation has taken place the percentage does not increase. It is testified that in the telephone plant ordinarily the plant as it stands represents about 85 per cent of its cost new. Therefore, in a matured telephone plant the depreciation fund should always represent 15 per cent of the total amount properly chargeable to capital account. The auditor of the Commission points out that 15 per cent has been produced from the $6\frac{1}{2}$ per cent annual depreciation within a very few years. I assume it will be agreed that the constant sum required to take care of depreciation should not be produced in one or two years because such a procedure would lay an unwarranted burden upon the rate payers who were patrons of the utility during such time. Here, again, the exact period over which this depreciation should be ordinarily created is hard to determine, but the evidence in this case shows that if depreciation does not take place at a greater rate than it has during the time within which this depreciation fund has been set up the rate is too high. This is admitted by the representatives of the company. They urge, however, that within a very few years the property of the defendant in this State has been doubled and that from the nature of things the percentage of depreciation in this new property does not represent the average per cent of depreciation which will be necessary to be provided against, and that when the property has reached an age which may be called its average age that the $6\frac{1}{2}$ per cent will be found not to be excessive. This contention of the defendant appeals to me as having some merit. On the other hand it is likewise in evidence that the extensions of this company are regularly being produced from this depreciation fund. To be sure, it is urged that this is a mere loan from the depreciation fund

to the capital account for new construction, but the condition developed here is one which must be watched very carefully else it will bring about a condition wherein the property, in extensions of this company, will be produced from the rates, a consummation devoutly to be wished from the standpoint of many utility men and seriously urged by some as justifiable. I have no hesitancy, however, in saying that it seems to me fundamental that no such use of depreciation funds should be permitted, unless the funds used in such capital expenditures are carefully accounted for and scrupulously returned to the proper fund. I am disposed to be careful in the handling of this depreciation matter. I believe it is very advisable both from the standpoint of the public and the utility that a proper and adequate depreciation fund be established annually, but of course this depreciation fund should be used for the purposes which give warrant for its collection and not to produce more property upon which an earning will be asked.

The company urges that in other states larger amounts than $6\frac{1}{2}$ per cent have been allowed for depreciation, and cites cases from Canada, Nebraska, South Dakota and a few from Wisconsin where 8 per cent has been allowed; also cases where 6, $6\frac{1}{2}$ and 7 per cent have been allowed; also reports of experts are referred to where amounts ranging from $5\frac{1}{2}$ to 8 per cent have been allowed.

It is difficult to determine the bearing of these cases without knowing all of the facts found to exist by the Commission rendering the decision. Likewise, it would be necessary for me to know on which side the expert in question was testifying before considering very seriously the amounts recommended by such experts. I say this in all seriousness, based upon experience.

In passing I believe it proper to state that it is very refreshing to note the much more ordinary fairness exhibited by the engineer of the telephone company testifying in this case, Mr. A. N. Hall.

In this case the only thing which raises a doubt in my mind as to the excessive amount of the depreciation fund provided is the age of many of the properties of this company. The engineer of the Commission basing his conclusion on a somewhat longer estimate of the life of the structures of the telephone company than the length of life for which the representatives of the defendant contend, advises that $4\frac{1}{2}$ per cent is sufficient. As I have said, historically $6\frac{1}{2}$ per cent is producing too much depreciation reserve, and it will be impossible to determine finally this matter until actual experience is behind such determination. The vice-president of the telephone company testifies that such actual experience has not been had anywhere to a sufficient degree finally to determine the proper depreciation amount. While I do not think this Commission should in any case resort to what is

known as splitting the difference, and while I believe that the present rate of depreciation is too high, still I do not recommend that we go as low as our engineer is of the opinion we could go. If error is to be made I would rather it be in favor of an ample depreciation fund than against it. I, therefore, will suggest a $5\frac{1}{2}$ depreciation until such time as actual experience has determined such amount is too high or too low. In fact the company has in times passed allowed $5\frac{1}{2}$ as a proper amount of depreciation.

2. *Payment of four and one half per cent of the gross to the American Telephone and Telegraph Company.*

I have no hesitancy in saying that any contract such as the one here in question should always be scrutinized with the utmost care. This is not meant to be a reflection on any of the local officials of the Pacific Telephone and Telegraph Company, but as is well known, and is in evidence in this case, this company is absolutely under the control through stock ownership of the American Telephone and Telegraph Company. Contracts such as this are not made between parties equally competent to contract and they in many cases are mere devices for diverting excessive dividends from earnings. Here the parent company which controls entirely the destinies of this company, takes a $4\frac{1}{2}$ per cent slice off the top of the gross revenue of this company before anybody else gets a chance at such revenue. The Pacific Company, defendant herein, urges that this is an actual expenditure and that as such must be allowed. Of course this is not an accurate statement of the law. Excessive, unreasonable or improvident expenditures though actually made may be disallowed by commissions and courts in rate-fixing inquiries. This is so well established that it is not necessary to cite cases thereon. It is urged by the Pacific Company that this contract is advantageous to it and cases are cited where other companies not controlled by the Bell companies have sought voluntarily to avail themselves of the provisions of this contract. It of course is true where any agency controls patented articles that other agencies not in control of such articles may often desire to avail themselves of their use and under the telephone situation in the United States it is not a matter of wonder that many independent companies are desirous of entering into arrangements with a company exerting the control over the telephone business that the American Telephone and Telegraph Company does. The Pacific Telephone and Telegraph Company while an independent corporation, is for all practical purposes a part of the American Telephone and Telegraph Company. Such being the case neither party to any contract between these two corporations legally independent but actually not, may be allowed to take advantage of such relationship to secure any earning whether through rates or otherwise that would not be permitted if such relation-

ship did not exist. It is urged by the defendant that in addition to what is actually done for it by the American Telephone and Telegraph Company there are certain things which might be done which are of value. I believe under the circumstances here found to exist that the amount allowed to be charged as an expense against the Pacific Telephone Company for services performed whether under contract or otherwise, in favor of the American Telephone and Telegraph Company should be limited strictly to what is actually done and the lowest reasonable amount for such service permitted. Every presumption except the barest legal presumption should be entertained against the fairness of such a contract. The stockholders of the American Telephone and Telegraph Company and the Pacific Telephone and Telegraph Company being the same it, of course, is to the interest of such stockholders to divert as much money as possible into funds that may be used as dividends in excess of the amount which may be lawfully earned. Because of this situation and the very natural human and corporate tendency to prefer one's own advantage, I believe it is the duty of this Commission, as I have already said, to limit the amount which shall be a charge for the service rendered by the American Telephone and Telegraph Company to the lowest fair value of the service actually rendered.

For the exchange here in question there was paid \$10,121.89 to the American Telephone and Telegraph Company during the year last past, this being at the rate of $4\frac{1}{2}$ per cent of the gross revenue. From the investigation made by the auditor of this Commission and submitted in evidence the only service rendered during this year for the exchange in question was the use of exchange station instruments numbering 1,468, which are valued by the companies themselves at \$2.92 each, which would represent a total valuation of \$21,806.56. The American Telephone and Telegraph Company contends for a rental value of 24 per cent, which includes depreciation, repairs, up-keep, interest, etc. This would allow this company \$5,233.57, assuming this 24 per cent earning not to be excessive which I am not prepared to admit, which would mean a reduction of \$4,888.32 on the 24 per cent basis of earning, and I believe if anything this exceeds the maximum which this company should be allowed to impose as a charge upon its patrons in San Jose, and in passing from this branch of the inquiry I can not refrain from saying that while my inclination is always to impute property motives to persons and corporations, still these intercorporate relationships with their attendant possibilities for fraud never have appealed to me, and I would most respectfully suggest to the utilities involved that open, fair, arms-length dealings would be better not only for the public but for the utility in the end.

As already pointed out various causes of complaint are pressed by the complainant. Before taking up the question of rates, which is in issue,

I desire to dispose of the other matters which are before the Commission and upon which evidence has been submitted.

With reference to the discrimination alleged between Saratoga and San Jose, that matter is involved in the toll rate case and is now being disposed of.

The practice of the company in requiring all payments to be made at the office in San Jose is the subject of complaint. The defendant disclaims this as a practice and I believe arrangements can very readily be made whereby no complaint will be justified in this regard without making any formal order with reference thereto. I believe, however, that at the various centers served by this exchange opportunity for payment of amounts due should be afforded to the patrons, and likewise a reasonable time be given between the default of the patron and the taking out of the instrument, and that before any instrument is taken out a collector visit the patron involved at least once. It is urged by the telephone company that this adds to its expense, but I do not think such is the case because of the fact that some one of necessity will visit the patron's premises to disconnect the telephone, and unless such disconnections are used by the company as a revenue producing device, as I do not think is the case, the visit of a collector would certainly be no more expensive and in most instances probably would bring about the payment. While I do not recommend any formal order in this matter if the company does not adopt a method which will obviate such complaints and continues to take out and disconnect telephones for non-payment of rentals before such patrons have had an opportunity to pay such rentals to a collector, the Commission will make an order with reference thereto. I believe it is the desire of this company—at least it should be—to live in peace and harmony with its patrons, and in these small matters a little tact will go far to establish a cordial relationship between the utility and its patrons.

I believe the time has come when this Commission should take a stand with reference to the deposit for telephone service. This practice, as it has been carried on in this State, has always amounted to a discrimination against the poor patrons. The company has at its election required the putting up of a deposit, and the testimony shows that it requires this deposit of those whose financial ability it questions, who are usually those of small means. Such burden put upon the subscriber of small means is absolutely unjustifiable and the only basis upon which this Commission should even consider the toleration of the continuance of this practice is that it be made absolutely uniform as to the rich as well as to the poor; the large users of telephone facilities as well as the small should be required to put up a deposit which should have a proper

relationship to the loss which the company would incur if the telephone is only used for a short time and with the extensive facilities for large users this loss would be greater and the deposit required should be likewise greater.

I recommend that in the order the company be required to discontinue this practice of requiring deposits within this exchange area and that it keep accurate accounts of the amount of expense which is added by reason of the discontinuance of this practice during the six months immediately following the effective date of this order. If such accounts show, as I believe from the evidence will not be the case, that by reason of the discontinuance of this practice the telephone company's expenses have increased, then an added amount should be allowed in the rates.

All of the complaints with reference to the failure to furnish the kind of telephone demanded, were met by the defendant. In the very nature of things there must be some difficulty in furnishing all patrons with the kind of service which they require as soon as the application is made. Service, of course, should be supplied promptly, and now that this Commission has jurisdiction over the entire affairs of this company within the exchange area involved, we will expect patrons who do not get their telephone facilities as promptly as they desire to complain promptly to this Commission and such complaints will be promptly investigated and the issues determined as they arise. I do not believe any order in general terms could properly meet these complaints. Here, again, we suggest to the defendant that its utmost endeavor be exerted to please its patrons and to give prompt connections when desired.

Complaint is made that the bills are required to be paid in advance. I believe the practice of requiring bills to be paid in advance is entirely reasonable and that the company is amply justified in this practice.

This covers all of the matters of complaint other than the rates. I have indicated to our Rate Department what relief I think should be given to the patrons of this company within the exchange area and careful computations have been made, and I shall recommend the establishment in the order of the new system of rates to apply to this exchange.

I have already set out the various property bases and the earnings submitted by the company, and the representatives of this Commission, and have shown the effect of the present rates under the various assumptions considered, and I have also discussed the differences between the representatives of this Commission and of the defendant, as presented in the evidence. I shall not make a specific finding as to the value of the property for rate-fixing purposes as I do not think

such a finding is necessary, but certain deductions suggested by the engineer of the Commission I consider justified and certain others not. which matters have heretofore been discussed. Assuming that the cost of reproduction of property as modified by resort to actual cost, where such cost may be determined, less the depreciation which has been found to have taken place, is a proper basis upon which to fix rates, which I do not decide nor consider necessary to decide in this case, we would have a figure of \$826,254.16 as representing the property of this company located within the exchange area. From actual computations based upon the rates which are established in the order there will be an annual reduction brought about by the application of such rates of \$12,237.00, which would leave a net return of \$50,185.80, assuming the statement of revenue and expense submitted to be correct, which is a little more than 6 per cent on such value. As already pointed out, however, I have adopted $5\frac{1}{2}$ per cent for depreciation rather than $6\frac{1}{2}$ per cent as urged by the defendant and $4\frac{1}{2}$ per cent as urged by the engineer for the Commission. This will add \$3,354.19 to the net earnings of this company in this area. Likewise I have taken $2\frac{1}{2}$ per cent instead of $4\frac{1}{2}$ per cent as the proper amount to be charged for the services rendered by the parent Bell Company, and this would add \$4,888.32 to the net revenue, making a total addition to the net revenue from these two sources of \$8,242.51 which would make a total of \$58,428.31. Again, assuming \$826,254.16 to be the value of this property this corrected net earning would result in a net earning of 7.07 per cent.

In making the computations I have rejected the method proposed by the auditor of the Commission for apportioning toll revenue, not because of any inherent defect in the reasoning which leads to this conclusion, but to the practical impossibility of its application as pointed out by counsel for defendant. If that method had been followed and the assumption of value herein considered adhered to the earnings would be considerable larger. It should not be the design of this Commission, as has heretofore been said, to scale down the earnings of a utility to a point below which confiscation would result, but from all of the evidence in this case I am of the opinion that the new schedule of rates is just and reasonable from all standpoints suggested by the very careful and able witness for defendant, Mr. Bush. I would suggest, however, that without any extensive criticism of the test of reasonableness held out by Mr. Bush that in very many cases which have come to my attention it would be impossible to comply with all the requirements urged by him because the complying with one of them in some instances would

render it impossible to comply with the others. I am disposed, however, to agree with Mr. Bush that if possible all of these requirements should be considered in fixing a reasonable scale of rates.

I submit the following order:

ORDER.

City of San Jose, a municipal corporation, having filed its complaint against the Pacific Telephone and Telegraph Company, a public utility telephone corporation, and a hearing having been held and being fully apprised in the premises,

The Commission hereby finds as a fact:

1. That the practice of the defendant in requiring a deposit before installing a telephone for a prospective subscriber is unjust, unreasonable and discriminatory.

2. The Commission further finds as a fact that the rates complained of by the complainant in the San Jose area in lieu of which different rates are established in this order, are unjust and unreasonable.

3. The Commission further finds as a fact that the following rates are just and reasonable rates to be charged by the defendant herein for the service indicated in its San Jose, Santa Clara, Sunnyvale, and Campbell exchanges:

Business, unlimited service.

| | |
|---------------------------------|--------|
| 1-party (desk or wall set)----- | \$4 50 |
| 2-party (desk or wall set)----- | 3 00 |

P. B. X. trunks, unlimited service.

No. 1 business commercial and No. 1 business hotel.

| | |
|------------------------------------|--------|
| For first two-way trunk----- | \$6 50 |
| Each additional two-way trunk----- | 4 875 |
| Each outgoing trunk----- | 4 50 |

No. 2, business commercial.

| | |
|-------------------------------------|--------|
| For first two-way trunk----- | \$6 50 |
| Each additional two-way trunk----- | 4 875 |
| For first outgoing trunk----- | 4 50 |
| Each additional outgoing trunk----- | 3 375 |

Residence, unlimited service.

| | |
|---------------------------------|--------|
| 1-party (desk or wall set)----- | \$2 50 |
| 2-party (desk set)----- | 2 25 |
| 2-party (wall set)----- | 2 00 |

And basing its conclusions on the forgoing findings of fact, *it is hereby ordered:*

1. That the defendant herein from and after the effective date of this order discontinue the practice of requiring a deposit from prospective patrons as a condition upon which telephone facilities will be installed.

2. The following rates are hereby found to be just and reasonable and are established as just and reasonable rates to be charged by said

defendant for the service indicated within its San Jose, Santa Clara, Sunnyvale, and Campbell exchanges:

Business, unlimited service.

| | |
|---------------------------------|--------|
| 1-party (desk or wall set)----- | \$4 50 |
| 2-party (desk or wall set)----- | 3 00 |

P. B. X. trunks, unlimited service.

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| | |
|------------------------------------|--------|
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| Each outgoing trunk----- | 4 50 |

No. 2 business commercial.

| | |
|-------------------------------------|--------|
| For first two-way trunk----- | \$6 50 |
| Each additional two-way trunk----- | 4 875 |
| For first outgoing trunk----- | 4 50 |
| Each additional outgoing trunk----- | 3 375 |

Residence, unlimited service.

| | |
|---------------------------------|--------|
| 1-party (desk or wall set)----- | \$2 50 |
| 2-party (desk set)----- | 2 25 |
| 2-party (wall set)----- | 2 00 |

NOTE.—All other present rates remain the same.

3. This order to become effective on or after the 1st day of November, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of October, 1913.

DECISION No. 1009.

IN THE MATTER OF THE APPLICATION OF THE TULARE
COUNTY POWER COMPANY FOR AN ORDER AUTHORIZ-
ING IT TO EXECUTE A TRUST DEED, ETC.

Application No. 736.

Decided October 13, 1913.

A. M. Drew and W. H. Orrick, for Tulare County Power Company.
J. J. Dunn, for C. J. Wrightsman.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner.*

This Commission having, on October 8, 1913, issued its supplemental order in the above entitled matter authorizing Tulare County Power Company to issue its promissory notes to the amount of \$250,000.00,

and having required, as a condition precedent, that a copy of the mortgage and deed of trust to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, to secure said notes, should be filed with and approved by this Commission;

And said mortgage and deed of trust having been filed with this Commission and bearing date of September 18, 1913,

It is hereby ordered that said mortgage and deed of trust be approved by this Commission.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of October, 1913.

Decision No. 1010, grade crossing; not printed. See end of volume.

DECISION No. 1011.

IN THE MATTER OF THE APPLICATION OF NAPA VALLEY
ELECTRIC COMPANY FOR PERMISSION TO ISSUE BONDS,
STOCK AND PROMISSORY NOTES.

Application No. 725.

Decided October 11, 1913.

Held, Applicant authorized to issue bonds of the face value of \$20,500.00, stock of the par value of \$15,300.00, one day promissory notes of the face value of \$5,000.00 for the purposes specified in the order.

Milton T. U'Ren, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue certain bonds, capital stock and promissory notes in the amounts and for the purposes which will hereinafter be specified in greater detail.

Applicant, among other business, supplies electric energy to the Napa Valley, in Napa County, California, between a point some 4 miles south of Yountville and what is known as Bale Station, on the line of the Southern Pacific Company between St. Helena and Calistoga. Applicant purchases its electric energy from the Snow Mountain Water and Power Company, and, besides serving its own customers, resells to Calistoga Electric Company for distribution in and about Calistoga.

defendant for the service indicated within its San Jose, Santa Clara, Sunnyvale, and Campbell exchanges:

Business, unlimited service.

| | |
|---------------------------------|--------|
| 1-party (desk or wall set)----- | \$4 50 |
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No. 1 business commercial and No. 1 business hotel.

| | |
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| Each outgoing trunk----- | 4 50 |

No. 2 business commercial.

| | |
|-------------------------------------|--------|
| For first two-way trunk----- | \$6 50 |
| Each additional two-way trunk----- | 4 875 |
| For first outgoing trunk----- | 4 50 |
| Each additional outgoing trunk----- | 3 375 |

Residence, unlimited service.

| | |
|---------------------------------|--------|
| 1-party (desk or wall set)----- | \$2 50 |
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NOTE.—All other present rates remain the same.

3. This order to become effective on or after the 1st day of November, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

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DECISION No. 1009.

IN THE MATTER OF THE APPLICATION OF THE TULARE
COUNTY POWER COMPANY FOR AN ORDER AUTHORIZ-
ING IT TO EXECUTE A TRUST DEED, ETC.

Application No. 736.

Decided October 13, 1913.

A. M. Drew and W. H. Orrick, for Tulare County Power Company.

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and having required, as a condition precedent, that a copy of the mortgage and deed of trust to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, to secure said notes, should be filed with and approved by this Commission;

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Dated at San Francisco, California, this 13th day of October, 1913.

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DECISION No. 1011.

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Milton T. U'Ren, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue certain bonds, capital stock and promissory notes in the amounts and for the purposes which will hereinafter be specified in greater detail.

Applicant, among other business, supplies electric energy to the Napa Valley, in Napa County, California, between a point some 4 miles south of Yountville and what is known as Bale Station, on the line of the Southern Pacific Company between St. Helena and Calistoga. Applicant purchases its electric energy from the Snow Mountain Water and Power Company, and, besides serving its own customers, resells to Calistoga Electric Company for distribution in and about Calistoga.

Applicant's authorized capital stock consists of \$200,000.00, divided into 2,000 shares, of the par value of \$100.00 each. Of the stock so authorized, applicant has issued stock of the par value of \$50,000.00.

Applicant has authorized a bond issue of the face value of \$50,000.00, consisting of 100 bonds of the face value of \$500.00 each. Of the bonds so authorized, bonds of the face value of \$29,500.00 have been issued.

Applicant has outstanding notes of the face value of some \$9,000.00, of which it asks authority to renew three notes of the total face value of \$5,000.00, as will hereinafter appear. Applicant on June 1, 1913, had accounts payable amounting to \$4,145.50.

Applicant has prepared an appraisal of the present value of its property, which appraisement shows the total sum of \$48,500.00. No appraisement has been made by this Commission.

Applicant's annual report for the year ending December 31, 1912, on file with this Commission, shows a net profit for the year amounting to \$3,623.27. Applicant has some 450 customers.

Applicant now desires to issue bonds, capital stock and notes as follows:

(a) Bonds of the face value of \$20,500.00, to be sold at par, and the proceeds thereof to be applied to the following purposes:

| | |
|--|-------------|
| (1) To apply on purchase price of property of Calistoga Electric Company ----- | \$2,500 00 |
| (2) Remodeling and reconstruction of applicant's plant at St. Helena ----- | 2,600 00 |
| (3) Reimbursement of patrons for money expended for laterals--- | 3,600 00 |
| (4) Extension and construction of new laterals and lines----- | 11,800 00 |
| Total ----- | \$20,500 00 |

(b) Capital stock of the face value of \$15,300.00, of which amount stock of the face value of \$6,500.00 is to be paid, together with \$2,500.00 in cash, for the property of the Calistoga Electric Company and stock of the par value of \$8,800.00 is to be issued in lieu of capital stock of the same amount which applicant purported to issue on March 15, 1913, without having first secured the consent of this Commission, as demanded by section 52 of the Public Utilities Act.

(c) Notes of the total face value of \$5,000.00 to renew three outstanding notes of the same total face value.

I shall now consider these matters somewhat more in detail.

As hereinbefore indicated, it is proposed to pay for the property of the Calistoga Electric Company \$2,500.00 in cash, being the proceeds of bonds of the same face value, and capital stock of the par value of \$6,500.00. The Calistoga Electric Company was incorporated on September 14, 1911, and serves Calistoga and vicinity with electric energy. The company has some 140 customers. It is impossible from

the report of this company on file with this Commission, to secure an accurate knowledge of the company's financial condition. The report gives the cost of plant, buildings and land as \$13,168.19, and of equipment as \$124.58. The amount of capital stock outstanding is \$13,500.00. The application in this proceeding alleges that the present value of the physical property of the company alone is \$5,962.00. Testimony at the hearing shows that the amount of money invested in the property, not including organization expenses or labor of promoters, is in the vicinity of \$7,384.61.

Calistoga Electric Company has not made any application to this Commission to sell its property, as is required by section 51 of the Public Utilities Act. Testimony at the hearing shows that no definite agreement has been reached for the sale and purchase of this property, but that applicant is of the opinion that it will be able to buy it for the cash and stock hereinbefore specified. The rates charged for electricity by the Calistoga Electric Company are in excess of those charged or to be charged by the applicant. Applicant intends soon to reduce its rates for electric energy, and if it acquires the property of the Calistoga Electric Company, it will extend its rates to the customers of that company. I recommend that this portion of the application be granted, subject to a formal application by the Calistoga Electric Company as required by the Public Utilities Act, for authority to sell its property to the applicant in this proceeding.

Applicant has heretofore made arrangements with certain intending customers by which they have paid for the extensions to serve their property, the amounts so paid being reimbursed from time to time on the basis of a certain percentage of the bill month by month. It appears that some \$3,600.00 is still due to such customers under these arrangements. Applicant claims title to the extensions and desires to repay to the customers the moneys which they have so expended.

Referring to the item of bond moneys to be expended for extensions and the construction of new laterals, it appears that applicant desires to make some seventeen extensions to serve new customers in the territory served by it. These extensions are designated on a map which was filed with the application and which is marked "Exhibit D." Applicant testified that, in its opinion, these extensions will be justified from a revenue standpoint.

Applicant has made no contract for the sale of its bonds, but expects to be able to sell them at par. In view of applicant's opinion that it will be possible to secure par for these bonds, the order will provide that they shall be sold at not less than par.

On March 15, 1913, applicant found itself with a surplus from undivided profits amounting to a sum in excess of \$8,800.00. Applicant has never declared any dividends but has put back profits into

the plant. Instead of declaring a cash dividend amounting to \$8,800.00, applicant on said day issued its capital stock in the amount of \$8,800.00 against an equivalent amount of undistributed profits. As this Commission's consent was not secured prior to the issue of this stock, the issue, under the provisions of section 52 of the Public Utilities Act, is absolutely void. Applicant will now cancel the certificates which it purported to issue and asks authority to issue new certificates in lieu thereof. I recommend that this portion of the application be granted.

Applicant now has outstanding, among other promissory notes, three notes in the amount of \$3,000.00, \$500.00 and \$1,500.00, respectively, each payable to the Bank of St. Helena and bearing interest at the rate of 7 per cent per annum, and each now overdue. Applicant asks authority to issue new notes, each payable one day after date and bearing interest at the rate of 7 per cent per annum, in lieu of the outstanding notes. The proceeds from these notes were all used in making extensions to applicant's plant. I recommend that this portion of the application be granted.

I find that the proceeds of the bonds, stocks and notes which applicant desires to issue are not properly chargeable to operating expenses or to income and recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

Napa Valley Electric Company having applied to this Commission for authority to issue bonds of the face value of twenty thousand and five hundred dollars (\$20,500), and its capital stock of the par value of fifteen thousand and three hundred dollars (\$15,300), and its promissory notes of the face value of five thousand dollars (\$5,000), and to use the proceeds thereof for the purposes hereinafter specified, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the proceeds of said bonds, stock and promissory notes are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. Napa Valley Electric Company is hereby authorized to issue twenty thousand and five hundred dollars (\$20,500), face value, of principal of bonds of said company, or so much thereof as may be necessary for the purposes hereinafter specified, respectively, maturing the first day of January, 1931, bearing interest at the rate of six (6) per cent per annum, payable semiannually, on the first day of January and the first day of July of each year, under and in pursuance of deed of trust or mortgage heretofore on the 12th day of

November, 1910, executed by Napa Valley Electric Company to Bank of Napa, trustee, on the following conditions and not otherwise, to wit:

(a) Napa Valley Electric Company shall sell said bonds so as to net said company not less than par.

(b) The proceeds of said bonds shall be used only for the following purposes:

(1) To apply on the purchase price of the property of the Calistoga Electric Company, in case said company hereafter secures the consent of this Commission to sell its property, not to exceed two thousand and five hundred dollars (\$2,500).

(2) For remodeling and reconstructing applicant's plant at St. Helena, not to exceed two thousand and six hundred dollars (\$2,600).

(3) To reimburse patrons for moneys expended for laterals, not to exceed three thousand and six hundred dollars (\$3,600).

(4) For the extension and construction of new laterals and lines, as per map filed with the application herein and marked "Exhibit D," not to exceed eleven thousand and eight hundred dollars (\$11,800).

2. Napa Valley Electric Company is hereby authorized to issue its capital stock to the amount of fifteen thousand and three hundred dollars (\$15,300), par value, on the following conditions and not otherwise, to wit:

(a) Capital stock of the par value of six thousand and five hundred dollars (\$6,500) may be issued in part payment for the property of the Calistoga Electric Company when said company has secured the authority of this Commission for the sale of its property to applicant.

(b) Capital stock of the par value of eight thousand and eight hundred dollars (\$8,800) may be issued in lieu of capital stock of the same par value which applicant purported to issue on or about March 15, 1913, without the authority of this Commission, to the following persons and in the following amounts: H. J. Lewelling, 26 shares; F. M. Wyatt, 1 share; Florence Brown, 22 shares; D. L. Beard, 22 shares; Emma L. Conner, 17 shares.

3. Napa Valley Electric Company is hereby authorized to issue its one-day promissory notes, bearing interest at the rate of seven (7) per cent per annum, and payable to the Bank of St. Helena, in the same amounts as the following notes and in renewal thereof:

(1) Promissory note for three thousand dollars (\$3,000), dated June 29, 1909, due one day after date and payable to the Bank of St. Helena.

(2) Promissory note for five hundred dollars (\$500), dated August 16, 1909, due one day after date and payable to the Bank of St. Helena.

(3) Promissory note for fifteen hundred dollars (\$1500), dated November 15, 1909, due one day after date and payable to the Bank of St. Helena.

4. Napa Valley Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale or disposal of the bonds, stock and notes hereby authorized to be issued, and on or before the twenty-fifth day of each month, the company shall make a verified report to the Commission stating the sale or sales or other disposition of said bonds, stock and notes during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. This order shall not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, as amended.

6. This order shall apply only to bonds, stock and notes executed prior to October 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 14th day of October, 1913.

DECISION No. 1012.

IN THE MATTER OF THE APPLICATION OF CONSERVATIVE REALTY COMPANY FOR AN ORDER FIXING ITS RATES FOR WATER SERVICE IN THE COUNTY OF LOS ANGELES.

Application No. 494.

Decided October 14, 1913.

Held, That the rate of 15 cents per thousand gallons with a minimum monthly charge of \$1.25 per consumer is a reasonable and just charge; that the connection charge of \$12.00 is unjust, and should be discontinued.

Jones & Bennett, for Applicant.

F. B. Amend, for Consumers.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

A decision was rendered in this case on the ninth day of May, 1913, dismissing the application on the ground that the contracts

which had been entered into between this company and its consumers, as construed at the time, put a limitation of 75 cents per month upon the charge which the company would make. The consumers, however, agreed in the face of such alleged construction to a rate of \$1.00 and this rate was fixed in the order.

Applicant asked for a rehearing and such rehearing was granted on the question of the contracts alone, the contention of the applicant being that the contracts themselves could not be construed to limit the charge to be made to 75 cents or any other amount but merely to fix 75 cents as a minimum and that no representations had been made to the contract-holders which could be construed by such contract-holders as entitling them to the 75 cent rate. With the construction of the contracts contended for by the applicant we agree, and the sole question which was left for this Commission to decide in determining the effect of such contracts upon the rates, is whether or not representations were made to prospective consumers which would lead them to believe that the contracts meant what a careful consideration of such contracts shows they did not mean. Of course any legal contemplation of such representations with reference to the unambiguous contract would have no effect, but in appealing to the discretion which is lodged in this Commission such representations do and should have large effect. Therefore the Commission granted a rehearing in order to enable the applicant to show that the representations had not been made which the consumers alleged were made. I am entirely satisfied with the showing made by the company. A positive denial is made by all of the officers of the company that any representations were ever made to any one other than that the 75 cents named in the contract should be the minimum amount, which minimum could be changed if the company elected so to do. Only one witness testified in behalf of the protesting consumers. This witness did not at all contradict the position of the applicant.

I am, therefore, of the opinion that rates should be fixed for this company on the usual basis which is followed by this Commission.

The applicant serves the town of Watts and surrounding territory in the county of Los Angeles, and has 796 consumers. Of these consumers 395 are in the town of Watts and 401 in unincorporated territory. Any order made by this Commission, of course, will affect only the latter consumers.

The company asks for a rate of 15 cents per thousand gallons with a minimum monthly charge of \$1.25. There is no contest over the 15 cents per thousand gallons but the minimum charge of \$1.25 is the cause of contention.

The Commission's engineer finds a present value of the company's property of \$56,208.00. The total gross income of this company under the 15 per cent per thousand gallons rate with a \$1.25 minimum, which has been in effect during the year 1912, is \$11,156.00. The company makes a connection charge of \$12.00 for each $\frac{3}{4}$ -inch connection, and during the year in question the amount realized from such connection charge was \$1,021.60; eliminating this from its gross income leaves a gross income of \$10,135.60 from water sales. Applicant shows a total expense for the year 1912 of \$8,935.29. This expense includes a salary for Mr. Peddar of \$200.00 per month and certain other items which the Commission's auditing and engineering departments think should be eliminated, and on the basis of the proper charges the operating expense of this company for the year 1912 was \$7,470.00. On the value of \$56,208.00 submitted by the engineering department of this Commission the gross revenue of \$10,135.60 is certainly not excessive. As has been said, this revenue is the result of the 15 cents per thousand gallons rate with a minimum monthly charge of \$1.25, which has been in effect during the last year and which is sought to be kept in effect by the applicant, and represents quite accurately what would be the result of the establishment of such a rate. If the amount of depreciation which is recommended by the engineer for the Commission be allowed, such depreciation, plus the annual expense, amounts practically to the total gross revenue of this company without any allowance for an earning on the value of the property. The population of this section is rapidly increasing, however, and it is my opinion that the rate of 15 cents per thousand gallons with a minimum monthly charge of \$1.25 asked for by the company is reasonable under all the circumstances and will within a comparatively short time net the company a reasonable profit. At present, however, the rate applied for will not net this company any profit.

I believe the connection and meter charges should be eliminated. The meter charge the company has already eliminated, and I think in the order it should be required to eliminate the connection charge of \$12.00. If a higher rate is necessary hereafter by reason of the elimination of this connection charge it should be allowed, but the Commission has already held in several instances that these connection charges are unwarranted.

I recommend the following order:

ORDER.

Conservative Realty Company, a corporation, having applied to this Commission to fix the rates which it shall charge to its consumers in unincorporated territory served by it in the county of Los Angeles,

and a hearing having been held and being fully apprised in the premises, the Commission hereby finds as a fact:

1. That the rate of fifteen (15¢) cents per thousand gallons with a minimum charge of one and 25/100 (\$1.25) dollars per consumer is a reasonable charge to be exacted by the applicant, Conservative Realty Company.

2. That the connection charge of twelve (\$12.00) dollars per connection is an unjust and unreasonable exaction.

And basing its order on the foregoing findings of fact and on the findings of fact in the opinion hereto, *it is hereby ordered,*

1. That the rate of fifteen (15¢) cents per thousand gallons with a minimum monthly charge of one and 25/100 (\$1.25) dollars be and the same is hereby established as a reasonable rate to be charged by Conservative Realty Company for water delivered to its consumers in unincorporated territory in the county of Los Angeles.

2. That from and after the effective date of this order no connection charge or meter charge be made by this company.

3. This order shall take effect and be in force on and after the 1st day of November, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of October, 1913.

DECISION No. 1013.

IN THE MATTER OF THE APPLICATION OF THE TULARE
COUNTY POWER COMPANY FOR AN ORDER AUTHORIZ-
ING IT TO EXECUTE A TRUST DEED, ETC.

Application No. 736.

Decided October 15, 1913.

REPORT OF THE COMMISSION.

ORDER VACATING SECOND SUPPLEMENTAL ORDER DATED
OCTOBER 13, 1913, ETC.

It appearing to the Commission that heretofore, to wit, on the 8th day of October, A. D., 1913, this Commission made its order herein authorizing Tulare County Power Company to execute twenty-two (22) promissory notes to Charles J. Wrightsman for a sum aggregating the sum of

two hundred and fifty thousand dollars (\$250,000) together with a mortgage or deed of trust to Jesse J. Dunn and John Yule, trustees, covering all of the property of said Tulare County Power Company for the purpose of securing said promissory notes; and

It further appearing that on the 13th day of October, 1913, there was presented to this Commission for its approval a certain deed of trust executed by said company, and that on the said day, to wit, October 13, 1913, the said deed of trust was by this Commission approved, and it now appearing on this day, to wit, October 15, 1913, and at 10 o'clock a. m. on the said day, that the said deed of trust so approved by the said order of October 13, 1913, had been executed prior to the order of October 8, 1913, authorizing the same; and it being made further to appear to this Commission that the lender of the funds, Charles J. Wrightsman, entertains doubt as to the validity of the said deed of trust so executed prior to authority being given therefor,

It is further ordered on this, to wit, October 15, 1913, at 10 o'clock a. m. on said date, that the said second supplemental order approving the said deed of trust be and the same is hereby set aside and held at naught, and the order dated October 8, 1913, held to be, and the same is, of full force and effect.

The foregoing third supplemental order is hereby approved and ordered filed as such third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of October, A. D. 1913.

DECISION No. 1014.

IN THE MATTER OF THE APPLICATION OF VENTURA COUNTY POWER COMPANY TO SELL TO THE CITY OF OXNARD THE WATER SYSTEM OF THE VENTURA COUNTY POWER COMPANY.

Application No. 675.

Decided October 16, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It is hereby ordered that the following language occurring at page 2, lines 16, 17 and 18, "The bonds draw interest at the rate of six per cent and were guaranteed by the Title Insurance and Trust Company of Los

Angeles, trustees," be stricken out and that the order be amended to read in lieu of such language eliminated as follows: "The bonds draw interest at the rate of six per cent and are secured by mortgage and deed of trust to the Title Insurance and Trust Company of Los Angeles."

Dated at San Francisco, California, this 16th day of October, 1913.

Decisions Nos. 1015 and 1016, grade crossings; not printed. See end of volume.

DECISION No. 1017.

EDWARD A. COLBY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 408.

Decided October 16, 1913.

Held. Defendant ordered to remove discrimination arising from failure to establish a passenger fare from Redlands to Los Angeles and return the same as the passenger fare from Los Angeles to Redlands and return.

Edward A. Colby, in propria persona.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This complaint is directed against an alleged discrimination in round trip passenger fares charged by defendant between Los Angeles and Redlands.

The defendant's one way and round trip fares between Los Angeles and Redlands as published in its tariffs on file with this Commission are as follows:

| From— | To— | One-way fare. | Sunday round trip excursion fare. | Saturday to Monday round trip excursion fare. | Eight-day round trip excursion fare. | Ten-day round trip excursion fare. |
|-------------------|---------------|------------------|---|--|--|--|
| Los Angeles ----- | Redlands ---- | \$2 05 | \$2 05 | ----- | \$3 00 | \$3 70 |
| Redlands ----- | Los Angeles-- | 2 05 | 2 05 | \$3 10 | ----- | 3 70 |

The Southern Pacific Company, the defendant in this case, has established and charges a fare of \$3.00 for an eight-day round trip ticket from Los Angeles to Redlands. This ticket is on sale daily and

two hundred and fifty thousand dollars (\$250,000) together with a mortgage or deed of trust to Jesse J. Dunn and John Yule, trustees, covering all of the property of said Tulare County Power Company for the purpose of securing said promissory notes; and

It further appearing that on the 13th day of October, 1913, there was presented to this Commission for its approval a certain deed of trust executed by said company, and that on the said day, to wit, October 13, 1913, the said deed of trust was by this Commission approved, and it now appearing on this day, to wit, October 15, 1913, and at 10 o'clock a. m. on the said day, that the said deed of trust so approved by the said order of October 13, 1913, had been executed prior to the order of October 8, 1913, authorizing the same; and it being made further to appear to this Commission that the lender of the funds, Charles J. Wrightsman, entertains doubt as to the validity of the said deed of trust so executed prior to authority being given therefor,

It is further ordered on this, to wit, October 15, 1913, at 10 o'clock a. m. on said date, that the said second supplemental order approving the said deed of trust be and the same is hereby set aside and held at naught, and the order dated October 8, 1913, held to be, and the same is, of full force and effect.

The foregoing third supplemental order is hereby approved and ordered filed as such third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of October, A. D. 1913.

DECISION No. 1014.

IN THE MATTER OF THE APPLICATION OF VENTURA COUNTY POWER COMPANY TO SELL TO THE CITY OF OXNARD THE WATER SYSTEM OF THE VENTURA COUNTY POWER COMPANY.

Application No. 675.

Decided October 16, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It is hereby ordered that the following language occurring at page 2, lines 16, 17 and 18, "The bonds draw interest at the rate of six per cent and were guaranteed by the Title Insurance and Trust Company of Los

Angeles, trustees," be stricken out and that the order be amended to read in lieu of such language eliminated as follows: "The bonds draw interest at the rate of six per cent and are secured by mortgage and deed of trust to the Title Insurance and Trust Company of Los Angeles."

Dated at San Francisco, California, this 16th day of October, 1913.

Decisions Nos. 1015 and 1016, grade crossings; not printed. See end of volume.

DECISION No. 1017.

EDWARD A. COLBY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 408.

Decided October 16, 1913.

Held. Defendant ordered to remove discrimination arising from failure to establish a passenger fare from Redlands to Los Angeles and return the same as the passenger fare from Los Angeles to Redlands and return.

Edward A. Colby, in propria persona.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This complaint is directed against an alleged discrimination in round trip passenger fares charged by defendant between Los Angeles and Redlands.

The defendant's one way and round trip fares between Los Angeles and Redlands as published in its tariffs on file with this Commission are as follows:

| From— | To— | One-way fare. | Sunday round trip excursion fare. | Saturday to Monday round trip excursion fare. | Eight-day round trip excursion fare. | Ten-day round trip excursion fare. |
|-------------------|---------------|---------------|-----------------------------------|---|--------------------------------------|------------------------------------|
| Los Angeles ----- | Redlands ---- | \$2 05 | \$2 05 | ----- | \$3 00 | \$3 70 |
| Redlands ----- | Los Angeles-- | 2 05 | 2 05 | \$3 10 | ----- | 3 70 |

The Southern Pacific Company, the defendant in this case, has established and charges a fare of \$3.00 for an eight-day round trip ticket from Los Angeles to Redlands. This ticket is on sale daily and

provides that stop-overs will be permitted at any intermediate **points** within the eight-day limit, and baggage not to exceed a **specified amount** will be checked and carried free. A similar round trip is not **provided** to apply in the reverse direction, that is from Redlands to Los Angeles and return, and the defendant has refused to publish and maintain such a fare, and this the complainant alleges, constitutes a **discrimination** in favor of Los Angeles to the prejudice of Redlands. The Commission is asked to require the carrier to eliminate this alleged **discrimination** by the establishment of an eight-day round trip fare from Redlands to Los Angeles and return to be on sale daily and to **provide** in connection therewith the same baggage checking and stop-over **privileges** as are now granted with the Los Angeles round trip fare of \$3.00.

The defendant contends that the fare in question is an excursion fare put in for the primary purpose of encouraging and developing the travel of tourists from Los Angeles into the country surrounding it, and that as this is an excursion fare, no discrimination results because a like fare is not granted in the other direction. Furthermore, defendant shows that nearly three times more passengers travel from Los Angeles to Redlands and return than in the other direction, and this is urged as another reason justifying the granting of the lower fare from Los Angeles.

It appears from the evidence that the \$3.00 eight-day round trip fare from Los Angeles to Redlands and return was originally established by the defendant in order to afford eastern tourists, whose destination is Los Angeles, the opportunity of visiting Redlands and vicinity, and was published as a purely excursion fare, limited in its use so as to be good only on the day of sale or the day thereafter, and was sold only during the winter months, that is, during the then tourist season. Later, at the request of the Redlands Board of Trade and the Riverside Chamber of Commerce, the limit was extended so that the ticket sold at this fare was good for use within eight days from the date of sale, and the period of sale was extended. Finally, the fare was permanently established and tickets under authority thereof were on sale every day of the year.

It is evident that defendant put this fare in originally as an excursion fare, but when this fare was established permanently and tickets therefor with the privileges of an unlimited one-way ticket were made available daily, this fare lost all of the characteristics of what is generally known to be an excursion fare, unless it be concluded that defendant's definition of an excursion fare is correct.

Defendant contends that all round trip fares are excursion fares where such round trip fare is less than the one-way fare in both directions. This certainly is not the usual conception of an excursion fare.

The fare to which that term is usually applied is one which involves an exceptional fare established for a limited period or a specific time, or even a certain train, in contemplation of or to induce an unusually large volume of travel, and usually such fares do not have incident to them the privileges or allowances which generally go with the one-way fares, such as the baggage checking privilege and the privilege of stopping over en route at intermediate points. However, it need not be determined in this case whether or not the fare in question is an excursion fare, because we find defendant charging a Sunday round trip excursion fare of \$2.05 from Los Angeles to Redlands and return and from Redlands to Los Angeles and return, and likewise a ten-day round trip excursion fare of \$3.70 from Los Angeles to Redlands and return and from Redlands to Los Angeles and return.

Therefore, we find defendant putting Los Angeles and Redlands on a parity as to fares with two different round trip fares, and then affording Los Angeles a more favorable round trip fare in one instance.

It would seem that while there is force in the contention of defendant that there is three times the movement of passengers from Los Angeles to Redlands and return than in the reverse direction, and it may be that volume of traffic should be considered in rate-fixing, this argument loses force when we find defendant disregarding this consideration in establishing two round trip fares as above stated.

I see no way of escaping the conclusion that inasmuch as defendant has placed Los Angeles and Redlands on a parity with respect to two distinct round trip fares, it should be consistent and establish the same parity as to the \$3.00 rate in question. It is true that complainant did not raise the question of reasonableness and no issue was made thereon in the trial herein, and therefore, the Commission is not in a position to order a \$3.00 excursion fare in from Redlands to Los Angeles and return, but is confined to a removal of the discrimination. I believe this discrimination should be removed by putting in the same \$3.00 fare from Redlands to Los Angeles and return as now exists in the other direction, but this is a matter which can be determined when defendant submits to the Commission its plan of removing the discrimination.

I submit herewith the following form of order:

ORDER.

Complaint having been made by Edward A. Colby, complainant, versus Southern Pacific Company, defendant, alleging discrimination in the round trip passenger fares now charged by defendant, between Los Angeles and Redlands, and a hearing having been had thereon, and the Commission being fully advised in the premises, it is hereby found as a fact that the charge by defendant of a daily \$3.00 passenger fare from Los Angeles to Redlands and return with stop-over and

baggage privileges, and the failure of defendant to provide passenger transportation at a like fare from Redlands to Los Angeles and return is unjust and unduly discriminatory, and basing its order upon this finding of fact and the further findings of fact found in the foregoing opinion,

It is hereby ordered that Southern Pacific Company, within twenty days from the date of this order, submit for the approval of this Commission a tariff of passenger fares removing the discrimination just above found to exist.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1018.

O. E. SLINACK

vs.

INGLEWOOD WATER COMPANY.

Case No. 437.

Decided October 16, 1913.

Held. That defendant adopt method of informing consumers of amount of water used each month and amount due therefor.

Held. That defendant may add 15 cents to all bills not paid by fifteenth of month.

Held. Discrimination in rates to consumers having lawns must be removed.

Hart & Cunningham, for Complainant.

W. J. Carr, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This case came on for hearing in Los Angeles, California, September 25, 1913.

The complainant alleges, and it was shown by testimony at the hearing, that he resides in the county of Los Angeles about one and one half miles from the nearest boundary line of the city of Inglewood and within unincorporated territory; that the defendant, the Inglewood Water Company, is a corporation duly organized and existing under the laws of the State of California, and authorized, among other things, to dis-

tribute water for domestic use in the city of Inglewood, county of Los Angeles, State of California, and in territory contiguous thereto; that the defendant serves the territory in which complainant resides with water for domestic and other use and that complainant is a consumer of such water.

The complaint against the defendant, the Inglewood Water Company, is not directed against the rates of defendant but is directed against the rules and regulations of that company; said rules and regulations particularly complained of being as follows:

“Water rates are due and payable at the office of the company on the first day of each month for water furnished during the preceding month and shall be delinquent on the fifteenth.”

Also:

“A collection charge of fifteen cents will be added to the bills not paid at the office of the company by the fifteenth of the month in which they are due.”

Complainant further alleges, and shows by testimony, that the monthly charge for water furnished by defendant to complainant (over and above a certain minimum charge) has been at all times and is now determined by the amount of water used, which amount is measured by a certain water meter on complainant's premises, which said meter is read by defendant's agent each month; that complainant has at all times herein mentioned used over and above the minimum amount and expects to do so at all times hereafter; that he has no means of ascertaining the exact amount due defendant for water used by him except by being informed by defendant, or its agent, of the result of said readings of the meters; that the agent of the defendant who makes the readings does not leave with complainant, or any one on his premises, or with any one for or on behalf of the complainant, at any place, a statement, or give any information whatsoever as to the amount of water used by the complainant or the amount due therefor, and that complainant has no knowledge of either of said facts unless defendant's collector calls at complainant's premises to collect the water rate, or unless defendant mails to or leaves with complainant a written statement or bill of the amount of water used and the amount due therefor; that the defendant has not performed and will not perform any of these acts, to wit, the sending of a collector to the complainant or the mailing or leaving with said complainant of said information, until after the fifteenth day of the month in which the water rate is payable, at which time the penalty of fifteen cents is added to the bill.

Complainant further alleges, and shows by testimony, that defendant has, for about one year, added to the bill due from complainant for water used for the preceding month the sum or penalty of fifteen cents,

because of the complainant not having paid the bill before the fifteenth day of the month, and that defendant threatens to continue to do so at all times hereafter.

Complainant further alleges, and shows by testimony, that for the first several months during said period he has either paid the amount of his bill for water used during the preceding month to defendant's agent or has sent defendant a check, but in neither case has he paid the said penalty of fifteen cents, and that since he has ceased to pay his bill, as above set forth, he has, between the first and tenth days of each month, mailed to the defendant at its office a check for the minimum amount of his water rate for the previous month, and, upon receipt of information as to the correct amount, has included the deficit representing the amount due for water which he has used over and above the minimum in the previous month in his check for the minimum rate in his next month's check, but had consistently refused to pay the collector of the defendant, or the defendant, any of the sums or amount added to his water bill as penalty, as aforesaid, and that defendant has, for the last three or four months, refused acceptance of complainant's checks, as aforesaid, and remailed the same to complainant.

Complainant further alleges that the defendant's interpretation of its rules above quoted is incorrect and contrary to and in violation of certain sections of the Public Utilities Act, which sections set forth the jurisdiction of this Commission and its power to pass upon the rules, regulations and practices of public utility companies within the Commission's jurisdiction, and to correct and amend same when the Commission deems such correction and amendment necessary.

Defendant, for answer, alleges, and shows by testimony, that its meter readings for the preceding month showing the amount of water used by its various consumers are completed and accessible to all of its patrons on the first day of each month; that defendant has a telephone in its office in the city of Inglewood, and is ready and willing to inform its patrons by telephone as to the amount of their bills; that the complainant also has a telephone at his residence, and that in fact many of defendant's patrons are similarly supplied with telephones and are thus able to ascertain without cost, expense or inconvenience, the amount of their bills. Defendant admits that, for the last three or four months, it has refused to accept checks sent to it by complainant, for the reason that said checks were marked: "Payment in full for water rates due," or words to that effect. Defendant denies that its interpretation of its rules are incorrect or that said rules, or any of them, are in any way in violation of any of the provisions of the Public Utilities Act.

At the hearing it was shown by the testimony of complainant that he had requested the agent of defendant, who reads the meters, to inform

him of the amount of his bill, but that said request was denied; that he lives from two to two and one half miles from the office of defendant and one half mile from the nearest street car line; that defendant had cut his water off in August because, as defendant stated, of the postponement of the hearing of this case by the Railroad Commission.

H. Lee Martin, secretary of the defendant company, testifying for defendant, stated that defendant has about 1,050 consumers; that the average monthly receipt from each consumer is about \$1.78; that the rates charged are as follows:

For domestic use, minimum rate of \$1.00 for 500 cubic feet and ten cents per hundred cubic feet for all excess over 500 cubic feet;

Special rate for consumers having lawns of either grass or clover of not less than 900 feet in area, 1,000 cubic feet for \$1.00;

Special rate for consumers who agree to pay a minimum monthly bill of \$2.00 per month continuously of 1,000 cubic feet for \$1.00 and seven and one half cents per hundred feet for excess over the 1,000 cubic feet;

Also a third special rate which provides for the minimum bill of \$3.00 continuously, said rate being seven and one half cents per hundred cubic feet for all water used.

Witness testified that, at four different times, the company had voluntarily reduced its rates; also that 85 per cent of the company's consumers pay at the office; that all service is metered, and that the company has a rule that it will mail to consumers, who will pay fifty cents a year extra, notices showing the amount of their bills.

Witness admitted that a large number of the company's consumers live from two to two and one half miles from the office of the company, and also that a large number of its consumers have no telephones.

The witness also admitted that, as secretary of the company, he had had considerable trouble with the complainant in this case, and that he had refused to accept the check of complainant although he knew or believed that the check was perfectly good and would be paid upon presentation to the bank; that he had done this because of the strained relations between complainant and the company.

At the conclusion of the hearing, complainant asked and received five days' time in which to file the opening brief, five days being also given to defendant to answer and three days for complainant to reply. Said briefs have been received and have been carefully considered.

As was stated at the hearing, this case should really never have been brought before the Commission, as the time of the Commission may well be devoted to something more important than the adjusting of what really amounts to a personal difference between a consumer of a water company who had some cause for complaint, and the secretary and manager of the company who admitted, under oath, that the company's

conduct towards the public would be very different if the company were subject to competition.

I believe that complainant, Mr. Slinack, and Mr. H. Lee Martin, secretary of the Inglewood Water Company, could and should have adjusted this matter amicably. However, Mr. Slinack acted strictly within his legal rights in asking the Commission to pass upon the reasonableness of the rules and regulations of defendant company, and I trust that the advice given to Mr. Martin—that the treatment of the public by his company, and, particularly by himself as manager of the company, should be no less courteous and considerate than it would be if the business of his company were strongly competitive—will be accepted by him in the spirit in which it was offered and be fruitful of good results.

I find as a fact that the Inglewood Water Company should adopt some method of informing its consumers of the amount of water used and of the rate and amount to be paid. Such information may be given in writing by the agent of the company when he reads the meter, or by postal card or letter, at defendant's election, but, in either case, must show, as above stated, the quantity of water, the rate and the amount to be paid.

I also find as a fact that, without establishing a principle or laying down a general rule, the relation between the company's income and expenses justify the company in demanding that bills be paid at the office of the company, and that receipts on a postal card or by letter be mailed to such of its consumers as pay by check. This latter can be no great hardship as the secretary of the company testified that 85 per cent of the consumers paid at the office.

I further find as a fact that the rule and regulation of the defendant, the Inglewood Water Company, adding fifteen cents to all bills not paid by the fifteenth of the month, following the month for which the bill is rendered, after consumers have been notified of the amount of their bills, is a just and reasonable rule.

Although not a part of the complaint in this case, I find, as developed by the testimony, that the rates of the defendant, the Inglewood Water Company, are discriminatory, in that a less rate is made to consumers who use the water for lawns than is made to consumers who use the water for other domestic purposes. While it is commendable on the part of the defendant, the Inglewood Water Company, to encourage the developing and keeping up of lawns, it has no right to discriminate in its charge for water between consumers who use the water for lawns or for rose bushes or other purposes. This discrimination should be removed.

I recommend the following order:

ORDER.

O. E. Slinack, of Los Angeles County, California, having filed a complaint with the Commission complaining of the rules, regulations and

practices of the Inglewood Water Company, a corporation, organized and existing under the laws of the State of California, and engaged in the business of serving water for domestic and other purposes to the residents of Inglewood, Los Angeles County, California, and territory contiguous thereto; and a hearing having been duly held, as provided by law, and the Commission having found—

(1) That the Inglewood Water Company should adopt some method of informing its consumers or patrons of the amount of water used and of the rate and amount to be paid each month, and that such information should be given in writing, either by the agent of the company when he reads the meter, or by postal card or letter sent from defendant's office, at defendant's election, but in either case that such notice should show the consumer or patron the quantity of water, the rate and the amount paid; and

(2) That, under the circumstances of this case, the Inglewood Water Company is justified in demanding that bills be paid at the office of the company unless it elects to send out a collector and that receipts on a postal card or by letter be mailed to such of its consumers as pay by check; and

(3) That the rule or regulation of the Inglewood Water Company, by which fifteen cents is added to all bills not paid by the fifteenth of the following month for which the bill is rendered, is a reasonable and just rule, providing consumers have been notified in writing of the amount of their bills; and

(4) That the rates of the Inglewood Water Company are discriminatory in that a less rate is made to consumers who use the water for lawns than is made to consumers who use the water for other domestic purposes;

It is hereby ordered that the Inglewood Water Company be and it is hereby ordered to adopt some method of informing its patrons or consumers of water in writing of the amount of water used each month, and of the rate and amount to be paid; and that said Inglewood Water Company give this information to its patrons or consumers either by having the agent of the company, when he reads the meter, leave a written notice giving such information, or by mailing from the office of said Inglewood Water Company a postal card or letter to the consumer, said postal card or letter to contain the information above set forth.

It is further ordered that the Inglewood Water Company be and it is hereby permitted to continue in effect its rule that the bills for water used shall be paid at the office of the company, unless it elects to send out a collector, providing patrons or consumers shall have first been

notified, as above provided; and provided, further, that receipts on a postal card or by letter be mailed to such of its consumers as pay by check.

It is further ordered that the rule of the Inglewood Water Company, adding fifteen cents to all bills not paid by the fifteenth of the month following the month for which the bill is rendered be and it is hereby approved, provided, however, that consumers shall be notified of the amount of their bills in the manner above set forth.

It is further ordered that the Inglewood Water Company eliminate the discrimination which now exists in its rates by reason of making a different rate to consumers who have lawns than is made to other patrons and consumers.

Finally, *it is hereby ordered* that this order shall take effect from the date hereof, and that the Inglewood Water Company, shall, within thirty days from date hereof, prepare and file printed rules with this Commission, such rules to conform to this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1019.

IN THE MATTER OF THE APPLICATION OF THE UNITED
LIGHT AND POWER COMPANY OF CALIFORNIA, FOR
ORDER AUTHORIZING ISSUE OF NOTE.

Application No. 777.

Decided October 16, 1913.

Applicant authorized to issue its promissory note in the sum of \$6,000.00 to be used for extensions to system.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by United Light and Power Company for an order authorizing the execution of promissory notes in the principal sum of \$6,000.00, and the execution of a chattel mortgage to secure the payment of the same.

Applicant is engaged in the business of generating and distributing electrical current for light and power in the cities of San Francisco and Oakland.

The A. W. Kirkland Company is the owner of a building in the city of Oakland, and is desirous of receiving electrical current from the plant of applicant at 220 volts, but in order to supply said Kirkland Company with this service, it will be necessary for the power company to expend approximately \$6,000.00 in order to increase its capacity.

The Kirkland Company has offered to loan the power company \$6,000.00 with which to make the needed additions to plant, said power company to execute in favor of the Kirkland Company a promissory note in the sum of \$6,000.00, payable \$2,000.00 in one year, \$2,000.00 in two years and \$2,000.00 in three years after date with interest at the rate of 7 per cent per annum and to execute in favor of said Kirkland Company a chattel mortgage on the facilities and equipment purchased and installed with said \$6,000.00 so loaned, as aforesaid.

The testimony of a representative of the power company at the hearing was that the expenditure of this money would enable the company to serve four or five times the amount of electrical energy which will be delivered to the Kirkland Company.

While this Commission expects public utility companies to provide service for consumers reasonably within the zone of service, still as it appears that because of unusual conditions the power company would be unable to finance this extension, and the Kirkland Company is willing to loan the money therefor in order to obtain prompt service, I believe this application should be granted, and submit herewith the following form of order:

ORDER.

Application having been made by United Light and Power Company for an order authorizing the issue of a promissory note to The A. W. Kirkland Company for the principal sum of \$6,000.00, and the execution of a chattel mortgage to secure the payment of the same, and a public hearing having been had thereon, and it appearing to the Commission that said application should be granted.

It is hereby ordered by the Railroad Commission of the State of California that United Light and Power Company is hereby authorized to execute in favor of The A. W. Kirkland Company a promissory note in the principal sum of \$6,000.00, payable \$2,000.00 in one year, \$2,000.00 in two years and \$2,000.00 in three years from the date thereof, with interest at the rate of 7 per cent per annum, payable semiannually, and said United Light and Power Company is further

authorized to execute in favor of The A. W. Kirkland Company a chattel mortgage in substantially the form as shown in the form of chattel mortgage on file herein, said chattel mortgage to be upon the property, plant and facilities purchased and installed with the proceeds of the promissory note hereinabove authorized.

This order is made upon the express condition that said United Light and Power Company shall receive \$6,000.00 for the issuance of the promissory note hereinabove authorized, and shall use said money for the following purposes, and not otherwise, to wit:

Equipment and machinery to increase the direct current generating capacity in order to serve the Dalziel Building on the north side of Fifteenth street, between Washington and Clay streets, in the city of Oakland, with direct current at 110 to 220 volts:

| | |
|--|-------------------|
| One 75 kilowatt engine and generator to be installed in the sub-station at the St. Marks Hotel, Twelfth and Franklin streets, Oakland, California----- | \$3,500 00 |
| Re-enforce present main line from Fourteenth and San Pablo avenue, north along San Pablo avenue 370 feet to the corner of Fifteenth and San Pablo. Build new 4-duct line from Fifteenth and San Pablo west 330 feet along Fifteenth street to the manhole in front of the Dalziel Building. Run service 90 feet from the end of this service to the Dalziel Building---- | 1,200 00 |
| Service mains to prospective customers to be connected to this extension ----- | 1,300 00 |
| Total ----- | \$6,000 00 |

Said company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the issuance of said promissory note hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the moneys realized from the issuance of said promissory note and the use and application of such moneys.

The authority hereby given to issue such promissory note shall apply only to a note issued by said company on or before the 15th day of December, 1913.

The payment of the minimum fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1020.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT AND POWER CORPORATION FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND AUTHORIZATIONS TO EXERCISE RIGHTS AND PRIVILEGES UNDER FRANCHISES HERETOFORE GRANTED TO IT IN THE COUNTY OF ORANGE AND IN THE CITY OF NEWPORT BEACH.

Application No. 768.

Decided October 16, 1913.

Applicant granted a certificate of public convenience and necessity authorizing it to construct its transmission line from Dominguez to the city of Newport Beach, and to construct and operate an electrical distribution system in Newport Beach.

S. M. Haskins, for Applicant.

Emmett Wilson, for Protestants.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is an application by Pacific Light and Power Corporation for a certificate that public convenience and necessity require the exercise of rights and privileges under franchises granted it by the city of Newport Beach and the county of Orange, and that public convenience and necessity require the construction and operation of an electrical transmission line in the county of Orange and an electrical distributing system in said city of Newport Beach.

The inhabitants of the city of Newport Beach are now being served with electricity by Newport Beach Electric Light and Power Company, which, at the hearing protested through a representative against the issuance of the certificates herein asked for.

It was clearly shown by the testimony at the hearing that the electric lighting service now being furnished the inhabitants of the city of Newport Beach by Newport Beach Electric Light and Power Company very poor. Frequently it happens that the electric lights become so dim that it is impossible to read by them, and in many instances the light is re-enforced by the use of oil lamps. The price of 15 cents per kilowatt hour charged for electricity is high.

The Pacific Light and Power Corporation seeking to enter this territory with its service, offers a rate of 8 cents per kilowatt hour with good service. The ability of this company to give this community good and

continuous service at 8 cents per kilowatt hour is beyond any doubt. In fact, it is admitted by all parties who appeared herein.

Representatives of Newport Beach Electric Light and Power Company testified that a very much lower rate would be offered if the invading company was kept out, and that service would be improved by the installation of additional apparatus, which is now on the grounds. It is evident, however, that until the Pacific Light and Power Corporation made application to invade this territory, the Newport Beach Electric Light and Power Company had made little, if any, effort to improve its service and had not in any instance reduced its rates. Therefore, under the rule heretofore laid down by the Commission, that where upon the application of a corporation to invade territory served by another corporation, the corporation occupying the field was found to be giving poor service at unduly high rates, the application would be granted, and the corporation seeking the privileges would be allowed to come in and compete, this application should be granted.

In order to reach the city of Newport Beach, applicant must cross a portion of the county of Orange, and for this they have obtained a franchise, but this franchise is a blanket franchise covering all the roads and highways in Orange County, and in as much as it will only be necessary to carry a transmission line from a substation in Dominguez across part of the county of Los Angeles and through the county of Orange to the city of Newport Beach, I see no necessity for issuing a certificate permitting this company to exercise rights under a blanket franchise covering all of Orange County. The authorization under the Orange County franchise should be limited so as to permit only the building of the needed transmission line.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made by the Pacific Light and Power Corporation for a certificate that public convenience and necessity require that it be allowed to exercise rights and privileges under franchises granted by the county of Orange and the city of Newport Beach, and that public convenience and necessity require the construction of an electrical transmission line in the county of Orange and an electric distributing system in the city of Newport Beach, and a public hearing having been had thereon, and it appearing to the Commission that said application should be granted,

It is hereby ordered by the Railroad Commission of the State of California that public convenience and necessity require the exercise of rights and privileges by Pacific Light and Power Corporation under a franchise granted by the board of supervisors of the county of Orange, dated the 17th day of June, 1913, a copy of which said franchise is on

file herein, provided, however, that rights and privileges under said franchise shall only be exercised to the extent of constructing, operating and maintaining an electrical distributing line through the county of Orange in the most direct feasible line from its substation located at Dominguez in Los Angeles County to the city of Newport Beach.

It is hereby further ordered that public convenience and necessity require that Pacific Light and Power Corporation exercise rights and privileges under a franchise heretofore granted said corporation by the city of Newport Beach dated the 14th day of July, 1913, a copy of which said franchise is on file herein.

It is hereby further ordered that public convenience and necessity require the construction, operation, and maintenance by Pacific Light and Power Corporation of an electrical transmission line from a substation at Dominguez in Los Angeles County to the city of Newport Beach, and the construction, operation and maintenance of an electrical distributing system in the city of Newport Beach.

This order is granted upon the specific condition that electricity shall be furnished under the systems hereby authorized to be constructed at a price not to exceed 8 cents per kilowatt hour.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1021.

STEPHEN A. D. CLARK ET AL.

vs.

HERMOSA BEACH WATER COMPANY.

Case No. 287.

Decided October 16, 1913.

Held. Fine of \$500.00, imposed on Hermosa Beach Water Company, remitted upon compliance of company with order of Commission regulating service of water.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas this Commission did on the fifteenth day of August, 1913, make and enter its order in the words and figures following, to wit:

“This Commission having, on July 23, 1913, issued an order directing Hermosa Beach Water Company to appear and show

cause why said company had not fully complied with the terms of this Commission's order, Decision No. 441, made in this proceeding on February 4, 1913, and why said company is not subject to the penalties provided in the Public Utilities Act,

And a hearing having been held upon said order to show cause, and said company having admitted that it had not complied with this Commission's order in the particulars above mentioned, and said company having presented no good reason why it had not fully complied with the Commission's said order,

The Commission hereby finds as a fact that Hermosa Beach Water Company has not fully complied with the Commission's order heretofore made in this proceeding on February 4, 1913, in that said company has failed to comply with that portion of said order providing:

It is hereby ordered that Hermosa Beach Water Company furnish in the mains from which complainants now obtain their water an adequate supply of water at a pressure at all times of not less than 20 pounds per square inch, said company to begin giving said service within a period of sixty days from the date of this order.

And that said order was made on February 4, 1913, and that no application for a rehearing of said order was filed with the Commission within the time provided by the Public Utilities Act for the filing of applications for rehearing of the orders of the Commission, and that the said order became finally effective.

It is therefore ordered that said Hermosa Beach Water Company be and it hereby is declared in contempt of this Commission; and

It is hereby ordered that said company be and it hereby is fined the sum of \$500.00, provided, however, that if within thirty days from the date of this order said company has fully complied with the terms of the Commission's order, Decision No. 441, heretofore made on February 4, 1913, said fine shall be remitted to said company; provided, further, however, that if at the end of said period of thirty days said company has not fully complied with the terms of said order, this Commission will take such steps, through criminal proceedings and otherwise, as it deems necessary to punish said Hermosa Beach Water Company and its officers for its failure to fully comply with said order;"

And whereas this Commission on the sixteenth day of September, 1913, made and entered its order in the words and figures following, to wit:

"Whereas the Railroad Commission of the State of California, did, on the 4th day of February, 1913, make and enter its order ordering and directing the Hermosa Beach Water Company to produce twenty pounds of pressure in the main at a certain part of its system, and thereafter, on the 15th day of August, 1913, this Commission made and entered its order, by which a fine of \$500.00 was assessed against this company, with the proviso that

if within thirty days of the date of said last mentioned order, said company fully complied with the terms and conditions of the order theretofore made, said fine would be remitted:

And it appearing to this Commission that notice of said order of August 15, 1913 was not brought to the attention of said water company until August 20, 1913, and that said company immediately upon receipt of said notice proceeded with diligence and in good faith to comply with the order dated February 4, 1913;

And it further appearing that five days' additional time will be required by said company to place itself in a position to obey said order of August 15, 1913;

Now, therefore, *it is hereby ordered* that if on or before the 21st day of September, 1913, said Hermosa Beach Water Company shall fully comply with the order of this Commission dated February 4, 1913, the fine of \$500.00 assessed against said company in the order dated August 15, 1913, shall be remitted";

And whereas subsequent to September 21, 1913, the engineers of this Commission made a thorough examination and test of the pressure under which water is furnished in the mains of the Hermosa Beach Water Company at the point at which said company was ordered to produce water under 20 pounds of pressure per square inch,

And it appearing from the report of said engineers that said company had in order to comply with the foregoing orders, erected a 50,000-gallon wooden stave tank and a pump capable of maintaining said tank full of water, and that as a result of such installation water under more than 20 pounds of pressure could be continuously produced in the mains at the point indicated in said order, and that water at such pressure was actually being produced at said point; now, therefore, it is hereby found as a fact that the order of this Commission dated February 4, 1913, wherein the Hermosa Beach Water Company was ordered to produce an adequate supply of water at a pressure of not less than 20 pounds per square inch in the mains of said company from which complainants take their water has been complied with; and

It is hereby ordered that the fine of \$500.00 assessed against the Hermosa Beach Water Company for a failure to comply with the order of this Commission be and the same is hereby remitted.

Dated at San Francisco, California, this 16th day of October, 1913.

Decision No. 1022, grade crossing; not printed. See end of volume.

DECISION No. 1023.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO MAINTAIN AND OPERATE TWO CERTAIN WHARVES IN THE WATERS OF THE PACIFIC OCEAN AT REDONDO BEACH, CALIFORNIA, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 2906 OF THE POLITICAL CODE.

Application No. 758.

Decided October 16, 1913.

REPORT OF THE COMMISSION.

Pacific Electric Railway Company having applied for the approval of this Commission under section 2906 of the Political Code of this State, to the exercise, by applicant, of the rights and privileges granted to applicant by the city of Redondo Beach in Ordinance No. 420, adopted on August 25, 1913, and attached to the application in this proceeding and marked "Exhibit A"; and in Ordinance No. 419, adopted August 18, 1913, and attached to the application in this proceeding and marked "Exhibit B," in each of the ordinances applicant is given the right, under certain conditions therein specified, to

"conduct and maintain a public wharf and approaches thereto on land bordering on the Pacific Ocean, and to collect tolls thereon and use same for the period of twenty years,"

And the Commission being of the opinion that this application should be granted,

It is hereby ordered that the above entitled application be and the same is hereby granted.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1024.

IN THE MATTER OF THE APPLICATION OF H. H. MAYBERRY
TO SELL A CERTAIN WATER DISTRIBUTION SYSTEM
TO J. A. GRAVES.

Application No. 778.*Decided October 16, 1913.*

REPORT OF THE COMMISSION.

H. H. Mayberry having applied to this Commission for authority to transfer to J. A. Graves, for a nominal consideration, a certain small water distribution system, consisting of

“approximately 4,500 feet of four-inch iron water pipe and 2,700 feet of two-inch iron water pipe and appurtenances, including meters attached, situated in that portion of the Stoneman Tract in the county of Los Angeles, California, bounded on the northwest by Huntington Drive; southwest by Wilson avenue; west by Monterey road as it was prior to its vacation; and on the southeast by the southeasterly limits of the Stoneman Tract, all in the city of Alhambra; together with any and all agreements, subscriptions, obligations, claims, dues, and demands existing or to exist against any or all users of water through said pipe, or any portion thereof,”

And the Commission being of the opinion that this is not a case in which a public hearing is necessary, and also that the application should be granted,

It is hereby ordered that the above entitled application be, and the same hereby is granted subject to the following conditions: The consideration which is given for the property herein authorized to be transferred shall not be taken before this Commission, nor any other public body, as representing for rate fixing, or other purposes, the value of the property transferred.

By order of the Railroad Commissioners of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1025.

IN THE MATTER OF THE APPLICATION OF J. M. VINCENT
FOR AN ORDER AUTHORIZING HIM TO CHANGE RATES
FOR WATER SERVICE IN THE TOWN OF CERES, STANIS-
LAUS COUNTY.

Application No. 671.

Decided October 16, 1913.

Application of J. M. Vincent to establish certain meter rates in lieu of flat rates,
granted.

A. J. Carlson, for Applicant.

E. H. Zion, for Water Consumers.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The applicant, J. M. Vincent, is the owner of a water system supplying the unincorporated town of Ceres, Stanislaus County. The water is pumped from wells and distributed to about eighty consumers; chiefly for domestic purposes.

Applicant has been operating under a flat rate of \$1.50 per month. Request is now made to establish a metered service on the following schedule:

For the first 6,000 gallons or any fraction thereof, \$1.50 per month.

For water in excess of 6,000 gallons up to 10,000 gallons per month, 20 cents per 1,000 gallons.

For water in excess of 10,000 gallons up to 15,000 gallons per month, 15 cents per 1,000 gallons.

For water in excess of 15,000 gallons per month, 10 cents per 1,000 gallons.

Applicant has installed some meters at his own expense and proposes to continue to furnish meters without charge therefor to his patrons.

Under the flat-rate basis applicant contends that some of his patrons have been using the water to irrigate lawns or gardens, and that under this practice he is compelled to supply the water at a loss.

Applicant claims an original cost of his system of \$6,893.12. The engineers of the Commission estimate the present value of the system to be \$6,644.00.

The applicant stated that his gross revenue for 1912 was \$1,440.00 and his operating expenses \$1,480.00. It is evident, therefore, that the rates under which applicant is now operating do not yield a sufficient return to pay operating expenses, depreciation and a proper return upon the investment. It is not possible, from the evidence at hand, to determine applicant's probable income under the proposed rates. I am of the opinion, however, that the application for the change in rates should be granted as applied for. If it should appear that any discrimination or injustice results therefrom, the matter may be again brought to the attention of the Commission.

I therefore recommend that the application be granted and submit the following form of order:

ORDER.

J. M. Vincent, having applied to this Commission for authority to change his schedule of water rates in the unincorporated town of Ceres, as set forth in the foregoing opinion, and a hearing having been held, and it appearing that the rates which the applicant herein has requested authority to establish are just and reasonable rates, it is hereby found as a fact that the following are just and reasonable rates to be charged by said J. M. Vincent for water service in the unincorporated town of Ceres:

For the first 6,000 gallons or any fraction thereof, \$1.50 per month.

For water in excess of 6,000 gallons up to 10,000 gallons per month, 20 cents per 1,000 gallons.

For water in excess of 10,000 gallons up to 15,000 gallons per month, 15 cents per 1,000 gallons.

For water in excess of 15,000 gallons per month, 10 cents per 1,000 gallons.

It is hereby ordered that J. M. Vincent be given authority to establish said schedule of rates, beginning November 1, 1913.

It is further ordered that said J. M. Vincent shall install meters used to measure water delivered from his system at his own expense.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1026.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE RENEWAL OF TWO PROMISSORY NOTES IN THE SUM OF FIVE THOUSAND DOLLARS EACH.

Application No. 781.

Decided October 16, 1913.

Application of the Southern Sierras Power Company to issue two promissory notes in the sum of \$5,000.00 each, in renewal of notes of a like amount now outstanding, granted.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This in an application of the Southern Sierras Power Company for authority to renew two certain promissory notes in the sum of \$5,000.00 each, as will hereinafter appear.

On November 1, 1911, applicant executed fourteen promissory notes in the sum of \$5,000.00 each, payable to E. S. Moulton, trustee, bearing interest at the rate of 6 per cent per annum, in part payment for the property of the Lytle Creek Power Company, which company was engaged in the business of supplying electric energy to the city of San Bernardino and certain portions of the county of San Bernardino. The total purchase price was \$90,000.00, of which \$20,000.00 was paid in cash and the remaining \$70,000.00 by means of these fourteen notes. Five of these notes were due November 1, 1912, and have been paid. Five others are payable on November 1, 1913, and the remaining four on November 1, 1914. Of the five notes due November 1, 1913, it is intended to pay off three and to renew the other two, concerning which last two this Commission's authorization is now requested. Applicant desires to execute two renewal notes in the sum of \$5,000.00 each, payable on or before May 1, 1914, payable to E. S. Moulton, trustee, bearing interest at the rate of 6 per cent per annum, and guaranteed by the Nevada-California Power Company.

I find that the proceeds of the notes which it is now desired to renew were used for proper capital expenditures and recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for an order authorizing it to issue the two renewal promissory notes hereinafter referred to, and a public hearing having

been held on said application, and the Commission finding that the purposes for which the proceeds of the notes which it is desired to renew were used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Southern Sierras Power Company be and the same is hereby authorized to execute and deliver two (2) promissory notes in the sum of five thousand dollars (\$5,000) each, dated November 1, 1913, payable on or before May 1, 1914, to the order of E. S. Moulton, trustee, with interest at the rate of six (6) per cent per annum, and guaranteed by the Nevada-California Power Company, in renewal of two (2) notes dated November 1, 1911, in the sum of five thousand dollars (\$5,000) each, likewise payable to the order of E. S. Moulton, trustee, on the following conditions and not otherwise, to wit:

1. The Southern Sierras Power Company shall report to the Railroad Commission the fact and the date of the issue of the notes hereby authorized.

2. The authority hereby given shall apply only to notes issued prior to December 1, 1913.

3. The authority hereby given shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, has been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1027.

IN THE MATTER OF THE APPLICATION OF REEDLEY TELEPHONE COMPANY FOR AUTHORITY TO ISSUE TWO THOUSAND FIVE HUNDRED SHARES OF ITS CAPITAL STOCK OF THE PAR VALUE OF ONE DOLLAR PER SHARE, THE PROCEEDS OF WHICH ARE TO BE USED IN NEW CONSTRUCTION AND EXTENSIONS IN THE CITY OF REEDLEY.

Application No. 764.

Decided October 16, 1913.

Application of the Reedley Telephone Company to issue 2,500 shares of capital stock of the par value of \$1.00 per share for the purposes of new construction and necessary extensions, granted.

A. Terkel, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application is for permission to issue and sell 2,500 shares of the capital stock of the Reedley Telephone Company of Reedley, California, at the par value of \$1.00 per share for the purpose of new construction and necessary extensions to the applicant's telephone system.

In considering this application it is to be noted that on March 11, 1913, this Commission issued its order in Decision No. 496 in the matter of Application No. 369, under which the Reedley Telephone Company was authorized to issue and sell 11,000 shares of its capital stock. As of the date of the application now being made for a further issue of stock, there were but 7,800 shares issued under the authorization of March 11, 1913. One of the purposes, for which the proceeds from the sale of the 11,000 shares of stock authorized to be issued were to be used, was the payment of a mortgage held against the applicant's telephone system by The Pacific Telephone and Telegraph Company.

At the hearing of this application, witness for the applicant testified that the payment of this mortgage has not yet become due, and that it is the intention to dispose of the balance of the authorized issue and to use the proceeds from its sale for the purpose of paying off this mortgage as soon as payment shall become due.

Witness for the applicant also testified and the application shows that the purpose for which the proceeds of this sale of stock is to be applied is for betterments and additions to this telephone system. The present outside plant affords no facilities for taking care of the normal demands of the business. It was also shown that, while the present office quarters are inadequate to properly conduct the business, the owner of the building refuses to make needed changes and improvements. It is necessary for this reason to find other and more suitable quarters, involving certain changes in the construction of the telephone plant. A new building is being constructed by private parties to be leased to the applicant and used for new office quarters. Aside from the necessary changes in the construction of the outside plant, the cost to the applicant of changing office quarters will be small. The construction of the outside plant is also designed to provide additional facilities to take care of the growth of the business and the greater portion of this construction cost will be chargeable to this item.

It is to provide for this work that the proceeds from the sale of the stock now being sought to be issued are to be applied.

There is no bonded or other debt other than the mortgage held by The Pacific Telephone and Telegraph Company and other than that

involved in ordinary current expenses outstanding against this corporation, and I am of the opinion that the public convenience will be subserved by the granting of this application. The following order is therefore recommended:

ORDER.

Application having been made by the Reedley Telephone Company, operating a telephone system as a public utility in Reedley, California, and adjacent territory, to issue 2,500 shares of its capital stock at the par value of \$1.00 per share, the proceeds of which are to be used for new construction and extensions, and a hearing having been held thereon and it appearing to this Commission that the purposes for which the Reedley Telephone Company desires to issue its stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Reedley Telephone Company be and it is hereby granted authority to issue 2,500 shares of its capital stock at the par value of \$1.00 per share upon the following conditions and not otherwise, to wit:

1. The stock herein authorized to be issued shall be issued so as to net the Reedley Telephone Company not less than the par value thereof.

2. The proceeds of the stock, herein authorized to be issued, shall be used for the purposes of making changes in the construction of its outside plant, made necessary by changing its office quarters, and for making betterments in its plant as set out in the opinion in this application.

3. The Reedley Telephone Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds derived from the sale of the stock herein authorized to be issued and on or before the twenty-fifth day of each month shall make a verified report to the Commission showing the sale or disposition of the stock herein authorized to be issued, the terms and conditions of such sale and the disposition of the proceeds derived therefrom, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

4. This order shall apply only to stock issued within six months from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913.

DECISION No. 1028.

TUJUNGA VALLEY IMPROVEMENT ASSOCIATION

vs.

TUJUNGA WATER AND POWER COMPANY.

Case No. 433.

NOBORU OMURA

vs.

TUJUNGA WATER AND POWER COMPANY.

Case No. 434.

TUJUNGA TERRACE IMPROVEMENT ASSOCIATION

vs.

TUJUNGA WATER AND POWER COMPANY.

Case No. 441.

Decided October 16, 1913.

Held. That defendant be required to put into effect such rules and regulations as will insure an equitable distribution of water to all of its consumers.

Held. That defendant facilitate the construction of certain improvements and take immediate steps to increase the available supply of water.

Held. That defendant install meters for each consumer not so provided, and to supply no new consumers until further order of the Commission.

John Beardsley, representing the Tujunga Valley Improvement Association.

Geo. M. Wilson, representing Noboru Omura.

J. Madison Carter, representing the Tujunga Terrace Improvement Association.

W. B. Mathews, representing the City of Los Angeles, Intervenor.

Chas. M. Wilson and *F. E. Davis*, representing the Tujunga Water and Power Company.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

These three complaints against the Tujunga Water and Power Company, each involving the adequacy of the service of the defendant company, were consolidated for hearing.

The complaint of the Tujunga Valley Improvement Association, in Case No. 433, alleges in effect that the complainant is an unincorporated

civic and agricultural association of land owners and water users in the Tujunga Valley in Los Angeles County, State of California; that the Tujunga Water and Power Company is a public utility serving water to the members of the complainant association in Tujunga Valley; that the members of the complainant association have no other source of water supply for domestic or irrigation use except the water supplied by the defendant company; that each of the members of the complainant association has at all times paid all charges demanded of the defendant company; that the defendant company has failed to maintain, improve, and extend its system so as to furnish adequate service, and the complainant requests that the Commission make an order requiring the defendant company to furnish the members of the complainant association efficient and adequate water service.

The complaint of Noboru Omura, in Case No. 434, alleges in effect that the complainant is the owner of Lot No. 38, Hansen Heights District; that the defendant entered into a contract with the Eucalyptus Estates Company, which company was the former owner of the land now owned by complainant, by which contract the defendant company undertook to supply one miner's inch continuous flow of water for each five acres to certain land, including that now owned by complainant; that the defendant company has refused to furnish the amount of water named in said contract and has not furnished enough water to properly irrigate complainant's land; that the water system of the defendant company is wholly inadequate to properly furnish complainant's land with water, and the complainant requests that the Commission order the defendant company to furnish the complainant with an adequate supply of water.

The complaint of the Tujunga Terrace Improvement Association, in Case No. 441, alleges in effect that the complainant is a voluntary association of water users and landowners in Tujunga Terrace, Los Angeles County, State of California, which territory is dependent for water upon the supply of the defendant company; that the defendant company has heretofore entered into an agreement to furnish water to the Tujunga Terrace Tract at the rate of one miner's inch continuous flow to every five acres of such irrigable land and for all reasonable domestic uses thereon; that the defendant company has not used due diligence in developing its system so as to furnish the amount of water specified in the agreement; that the defendant company is failing to adequately serve the lands owned by members of the complainant association; that the water system of the defendant company is not kept in proper repair and that the company supplies water outside the tracts of land covered by the contracts referred to, to the prejudice of the owners of land in the Tujunga Terrace Tract, and the complainant asks that the Commission require the defendant company to build a suitable reservoir and to install such other equipment as will enable the company to adequately

serve the members of the complainant association, and requests further that the Commission require the defendant company to install temporary pumping plants and to install such other temporary equipment as are necessary to obtain sufficient water to meet the needs of the present season.

The answer of the Tujunga Water and Power Company, in each of the three cases, is practically the same and alleges, in effect, that the defendant company is serving water to the lands of the complainants by virtue of certain contracts, and that one of the terms of said contract is that the company shall proceed with reasonable diligence with the construction of suitable dams, reservoirs and other equipment necessary to serve the lands of the complainants with the amounts of water specified in the contract; that the company has proceeded with due diligence to install the necessary reservoirs and other equipment; that the company has at present a plan by which it will sell certain land in the San Fernando Valley, from which the company expects to realize sufficient money to complete the construction of a dam and reservoir of sufficient capacity to adequately serve all the lands owned by the complainants, and the defendant company denies that its system is at present inadequate to supply the amount of water, which, under the terms of the contract, refers to the company as under obligation to serve to the lands of the complainants. In its answer to the complaint of Noboru Omura, the defendant company also alleges that the two-inch pipe, which was installed by the complainant and connected with the defendant company's main, is inadequate to properly supply the land owned by the complainant.

These three cases were consolidated and heard together at Los Angeles on September 26, 1913. It developed at the hearing that the Tujunga Water and Power Company operates a gravity water system. The water is obtained from the Tujunga Creek. A tunnel has been cut across the bed of the creek and a pump has also been installed just below this tunnel. From these sources the company gets its water. The water is carried in a wood stave pipe for approximately two miles to a division house where the water is divided, one portion being sent to serve the Hansen Heights District and the other portion being sent to serve the Tujunga Terrace District. These two districts aggregate 1,660 acres of irrigable land and about 800 acres is now under irrigation. The lands comprising the Hansen Heights District and the Tujunga Terrace District were sold in small tracts by the predecessor of the Tujunga Water and Power Company. These tracts were sold under a contract which included certain provisions concerning the supply of water, to which I shall refer later. There are at present about eighty water consumers in these two districts.

There are two problems involved in these cases: the first is the conservation of the present water supply and equitable distribution of the same by a just system of rules and regulations; the second is the permanent increase in the source of water supply by the construction of suitable storage reservoirs or by the installation of additional pumps. I shall consider these two matters separately.

It developed at the hearing that the defendant company has been extremely lax in the management of this water system. This is a gravity system, and inasmuch as the territory served is undulating, the distribution pipes must be full at all times in order that the consumers on the higher levels may obtain water. It has been the practice, however, particularly during periods of water shortage, for the consumers in the lower levels to use water at any and all times in large quantities to the prejudice of those on higher levels. The company claims that it at present has water enough to serve all, but that because of the practice just mentioned certain consumers do not get water.

It is imperative, in a situation such as the one here presented, that the company and the consumers work in harmony. It is the duty of the company, however, to put into effect such rules and regulations as will systematize the distribution of water and insure to each consumer his ratable portion of the supply. The company has not even supplied meters to all consumers and I recommend that the company be required to immediately install meters to those consumers who do not now have them. I also recommend that the company be required to put into effect such rules and regulations as will insure an equitable distribution of water. A difficulty is encountered here because water is received through the same pipes for both irrigation and domestic use. Some scheme will have to be devised, therefore, which will insure an equitable system of rotation for irrigation use without depriving the consumers of water for domestic use.

At the hearing, the attorney for the defendant company stated that, in his opinion, the adoption of equitable rules and regulations would remedy the matters complained of and that the company contemplated drafting a set of rules and regulations to be put into effect. This must be done and the company must also systematize its entire management of this water system.

I want to urge again upon the consumers the necessity of co-operating with the company in complying with such rules and regulations as may be adopted. It is only by such co-operation that a gravity system, such as the one upon which these complainants are dependent for water service, can be successfully operated.

Another evidence of the lax management of this water system by the defendant company is found in the large number of bills which have not

been collected. Some of the consumers have not paid their bills for the past two years and in certain individual cases the unpaid bills amount to over \$100.00. The company should not permit this condition to arise. It is the duty of the company to serve water and it is the duty of the consumers to pay for such service. I believe that the entire lack of a realization of these two correlative obligations is largely responsible for the present difficulty.

I desire now to consider the adequacy of the system of the defendant company to supply the two districts above mentioned.

The company states that the tunnel and pump in the bed of the Tujunga Creek are at present producing approximately 60 inches of water. The consumers, on the other hand, state that the supply does not exceed 40 inches. The company has no means of measuring its supply other than by the amount of water consumed, this being determined by meter readings. It is very evident, however, and also admitted by the company, that the present supply is entirely inadequate to properly serve the 1,660 acres comprising the Hansen Heights District and the Tujunga Terrace District. In this connection, however, the company calls attention to the fact that each of the individual tracts of land in these two districts was sold under a contract, a copy of which was filed as defendant's Exhibit I, and by the terms of which contract the predecessor of the defendant company undertook to serve one inch of water to each five acres, the seller agreeing that he "shall with all reasonable diligence complete the construction of suitable dams, reservoirs, apparatus and piping systems to collect and store all waters of the said Tujunga River," except certain amounts which are specified and which were not owned by the selling company. The Tujunga Water and Power Company relies on the provision of the contract above quoted and states that, in its opinion, the company is under no obligation to serve water to the consumers in these two districts until the sources of supply have been fully developed and that the company has been proceeding with all reasonable diligence to develop these sources.

I do not regard the provisions of this contract as in any way affecting the rights of the consumers in this case. The Tujunga Water and Power Company is clearly a public utility under the provisions of the Public Utilities Act. Being a public utility, this company is under an obligation to adequately serve its consumers. The provisions of the contract above quoted can not, in any way, restrict the obligation which this company owes to the public.

Before considering this question further, I desire to state that the city of Los Angeles was represented at the hearing by Mr. W. B. Mathews. Mr. Mathews stated that the city of Los Angeles asserted

certain rights to the waters of the Tujunga Creek. He stated, however, that, in his opinion, the city would have no objection to the installation of additional pumps by the Tujunga Water and Power Company. The Tujunga Water and Power Company, on the other hand, contends that its rights to the waters of the Tujunga Creek are paramount to those of the city of Los Angeles. The company also has secured, from the Interior Department of the United States Government, certain dam sites in the canyon of the Big Tujunga Creek. These dam sites were procured in spite of the opposition of the city of Los Angeles.

I do not assume in this opinion to in any way pass upon the merits of the conflicting claims to the waters of the Tujunga Creek. It is not within the province of this Commission to adjudicate titles to water rights and the determination of this question has been and must be left to the courts.

Returning now to the consideration of the adequacy of the water service of the defendant company: Doctor Homer A. Hansen, manager of the Tujunga Water and Power Company, testified at the hearing that the company was now proceeding to erect a dam in the canyon of the Big Tujunga Creek. This dam, when completed, will give a continuous flow of 983 inches of water. This amount of water, of course, would be entirely sufficient to adequately serve the two districts in question. Doctor Hansen also testified that the company is working on a second smaller dam site which will produce approximately 50 inches. The work on these dams should be rushed as much as possible.

I recommend that in the order the company be required to increase its source of water supply and that suitable storage facilities be installed in order to adequately supply its consumers. Inasmuch, however, as the company is now proceeding with the construction of dams, as already mentioned, I shall not recommend that the order specify definitely the details of the work to be done. I do recommend, however, that the company be required to submit to this Commission every two weeks a detailed report of exactly what has been accomplished toward the construction of these additional facilities. In this way the Commission will be constantly informed as to the progress of this work and, in case the same is not proceeding to the satisfaction of the Commission, the Commission can take such further action as it deems necessary in order to insure an adequate supply of water being served to the consumers of the Hansen Heights District and the Tujunga Terrace District.

There was some evidence introduced at the hearing to the effect that this company had been supplying water outside of the two districts in question and that the company proposed to take on additional consumers outside of these two tracts. In regard to the latter allegation, it

appears that the company has entered into a contract for the sale of some 22,000 acres in close proximity to those now served with water and that the company in that contract undertakes to supply water to these additional lands, one of the terms of the contract, however, being that these lands shall only receive water after the Hansen Heights District and the Tujunga Terrace District have been adequately served.

I recommend that the order in this case include a direction that the Tujunga Water and Power Company shall not take on any additional consumers, either within or without the two districts mentioned, until the existing consumers in these two districts are receiving adequate service.

I submit herewith the following form of order:

ORDER.

These cases having been consolidated for hearing, and the hearing having been duly had,

It is hereby ordered that, on or before November 1, 1913, Tujunga Water and Power Company put into effect, subject to this Commission's authority, such rules and regulations governing the distribution of water as will insure an equitable distribution of water among all of the company's consumers.

It is further ordered that Tujunga Water and Power Company take immediate steps to increase the available supply of water by the construction of dams and other suitable storage facilities, and that on the first and fifteenth day of each month said company shall make a verified report to this Commission setting forth in detail exactly what has been done toward the construction of such facilities.

It is further ordered that, within thirty days, the company shall install a meter for each consumer who has not already been provided with a meter, this meter to be installed at the expense of the company, although, if agreeable to the consumer, the consumer may advance the cost of the meter and the same be absorbed in the amounts which become due to the company for water furnished to said consumer.

It is further ordered that Tujunga Water and Power Company shall supply no new consumers, either within or outside the Hansen Heights and Tujunga Terrace districts, until the further order of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of October, 1913

Decisions Nos. 1029 and 1030, grade crossings; not printed. See end of volume.

DECISION No. 1031.

IN THE MATTER OF THE APPLICATION OF J. FRANK JACKSON AND IDA H. JACKSON FOR AN ORDER REGULATING THE USE OF WATER.

Application No. 784.

Decided October 17, 1913.

Held, Applicant permitted to collect in advance the minimum monthly rate for water service from each of two consumers upon a single service connection.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

On July 29, 1913, this Commission made its order in Application No. 385, being the application of J. Frank Jackson and Ida H. Jackson for permission to increase rates for domestic water service at San Martin, Santa Clara County, California, in which order the Commission directed the applicants "to install a water meter for each of their consumers." On October 8, 1913, this Commission issued a supplemental order in said application permitting the applicants to serve water without meters to certain temporary camps of laborers engaged in building the state highway through the town of San Martin. J. Frank Jackson and Ida H. Jackson have now filed the present application, in which they state that certain consumers do not have direct connections with applicants' mains, but are connected to the service pipes of other consumers, and there being only one meter upon this service pipe, the two consumers on that service pipe take the position that the company is entitled to only one minimum rate. Applicants accordingly request that this Commission made an order permitting the company to receive a separate minimum charge from each consumer, irrespective of whether each particular consumer has a separate service connection with applicants' mains.

The situation at San Martin is best illustrated by the following two typical cases: One of these is a case in which two houses have been erected upon one lot, the owner of the lot living in one house and receiving water from applicants, the second house being leased to tenants, who receive their water through a connection with a service pipe to the first house. The second case is that in which the owner of a lot has erected a house thereon, and has also erected in the front of the lot a blacksmith shop, which is ordinarily leased to tenants, the tenants

receiving water as in the other case,—not from a direct connection with the mains of applicants, but through a connection with the pipe serving the house.

By the terms of this Commission's order made on July 29, 1913, in Application No. 385, applicants were directed to "install a water meter for each of their consumers." It is very evident that in each of the two cases above mentioned there are two consumers and not only one. Under the Commission's order, therefore, applicants could be compelled to install a separate service connection for each of the consumers.

It becomes necessary to interpret the term "each consumer" as used in this Commission's order upon Application No. 385. I hold that the term "each consumer" as found in said order, means each separate household, or, in other words, each distinct user of water.

Under the rates in effect upon applicants' water system applicants are entitled to receive a minimum rate from each consumer. I hold, therefore, that applicants are entitled to receive a separate minimum charge from each different, distinct household or user of water. While applicants could be compelled to install a separate service connection to each consumer, it appears that certain consumers upon applicants' water system refuse to permit applicants to install separate service connections. I do not believe, however, that such consumers should be permitted to deprive applicants of the minimum charge to which they are entitled. In those cases, therefore, in which two consumers are connected to the same service pipe, I hold that applicants should be permitted to require the payment in advance, each month, of a separate minimum charge for each consumer.

There were certain other cases presented which I do not believe need individual attention by this Commission, but we have to be just in accordance with the principles above outlined. The application of these principles should not, however, be carried to ridiculous extremes. If a small temporary use of water was made from an adjoining house, I do not believe that applicants should be so arbitrary in the application of the above outlined principles as to require the payment of a minimum charge for such small temporary use. The opinion and order in this case are based upon the facts of this particular situation and should not be regarded as a general precedent for other cases.

I recommend herewith the following form of order:

ORDER.

The above-entitled application having come on regularly for hearing,

It is hereby ordered that in those instances in which there are more than one consumer connected with a single service pipe upon applicants' system, and it is impossible and impracticable for applicants to

install a separate service connection for each of said consumers, applicants are hereby authorized to collect, in advance, each month a minimum charge for each of the consumers upon said single service pipe.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of October, 1913.

Decisions Nos. 1032 and 1033, grade crossings; not printed. See end of volume.

DECISION No. 1034.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC
TELEPHONE AND TELEGRAPH COMPANY FOR AU-
THORITY TO ISSUE BONDS OF THE FACE VALUE OF
THREE MILLION DOLLARS.

Application No. 763.

Decided October 21, 1913.

Held, Applicant authorized to issue bonds of the face value of \$3,000,000.00, proceeds to be used to reimburse applicant for expenditures incurred in taking up certain bonds of the Sunset Telephone and Telegraph Company, and for the acquisition of property and the construction, completion and extension of facilities.

Pillsbury, Madison & Sutro and Oscar Sutro, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue bonds of the face value of \$3,000,000.00 for the purposes hereinafter specified. Applicant is a California corporation engaged in the operation of a general telephone system in the States of California, Nevada, Oregon, Washington and part of Idaho, embracing local and toll service.

Applicant's authorized common stock amounts to a total of \$18,000,000.00, par value, all of which has been issued. Applicant's authorized preferred stock amounts to \$32,000,000.00, all of which has likewise been issued. The American Telephone and Telegraph Company owns \$21,707,200.00 of the preferred stock and \$9,017,200.00 of the common stock.

Applicant lists its outstanding bonded indebtedness as follows:

| | |
|--|-----------------|
| 1. Bonds of Sunset Telephone and Telegraph Company, dated July 15, 1900, and due October 1, 1929, 5 per cent----- | \$1,812,000 00 |
| 2. Bonds of The Pacific Telephone and Telegraph Company, dated 1907, due 1937, 5 per cent—authorized \$35,000,000, outstanding ----- | 32,000,000 00 |
| 3. Bonds of Home Long Distance Telephone Company, dated March 15, 1912, due January 12, 1932, outstanding----- | 7,080,000 00 |
| Total bonded indebtedness ----- | \$40,892,000 00 |

On page 5 of its application, applicant lists its notes and accounts payable, totaling \$1,279,838.31.

Applicant's assets and liabilities as claimed by it as of July 31, 1913, amount to \$102,040,070.62. It is not necessary in this proceeding to examine the items entering into the assets or the liabilities for the reason that it appears that there is a sufficient margin between the value of the property and the amount of bonds which will be outstanding if the bonds now applied for are issued.

Referring to the revenues and operating expenses, applicant reports a net income for the eight months ending August 31, 1913, amounting to \$1,453,454.00.

Applicant now asks authority to issue the remaining \$3,000,000.00, face value, of its bond issue secured by deed of trust to Mercantile Trust Company of San Francisco, dated January 2, 1907. Applicant has entered into a contract with Lee, Higginson & Company of Boston to sell these bonds at 96.3 per cent of their face value if delivered by October 31, 1913, in Boston. Lee, Higginson & Company has already paid 60 per cent on the amount to be paid by it under this contract. If these bonds are sold for this price the sum of \$2,889,000.00 will be realized from their sale. Applicant desires to use these proceeds as follows:

| | |
|---|----------------|
| 1. To redeem bonds of the Sunset Telephone and Telegraph Company, secured by mortgage or deed of trust to Old Colony Trust Company, dated February 2, 1900 the sum of | \$1,850,000 00 |
| 2. To take up note given for expenditures incurred on capital account during July and August, 1913----- | 242,100 00 |
| 3. To apply on extensions and improvements chargeable to capital account which applicant estimates will be necessary during the remainder of the year 1913----- | 1,026,100 00 |
| Total ----- | \$3,118,200 00 |

As it is evident that the amount thus to be expended is in excess of the proceeds to be realized from the sale of the bonds, it seems clear that a portion of the money estimated to be necessary for the extensions and improvements during the balance of the year 1913 will have to be derived from some other source.

I shall now refer somewhat more in detail to each of the three purposes for which applicant desires to use the proceeds from the sale of these bonds.

Referring first to the bonds of the Sunset Telephone and Telegraph Company, it appears that the bonds which applicant now desires to issue were reserved for the purpose of paying off bonds of the face value of \$2,250,000.00 of the Sunset Telephone and Telegraph Company's issue. Of these bonds \$1,812,000.00 were outstanding prior to October 1, 1913. The remaining bonds of the total of \$2,250,000.00 were in the sinking fund. In accordance with an agreement between the applicant and the Sunset Telephone and Telegraph Company, entered into at the time when the applicant acquired the Sunset's property, it was made the duty of the applicant to call in the outstanding Sunset bonds on October 1, 1913. Applicant did so, paying 105 per cent of the face value. In order to retire these bonds applicant borrowed \$160,000.00 on its one-day promissory notes and secured from Lee, Higginson & Company on their contract to purchase the bonds for which authorization is now requested, the sum of \$1,755,400.00, which sum includes some accrued interest. Applicant has already paid from other sources something over \$52,000.00 of the total amount necessary to redeem the Sunset bonds, and now asks authority to use the proceeds of the bonds now to be issued up to \$1,850,000.00 to refund indebtedness incurred in taking up the Sunset bonds.

While recommending, on the facts of this case, that this portion of the application be granted, I do not desire to be understood as passing on the question whether it is proper to capitalize the premium of 5 per cent which was paid to call in the Sunset bonds.

Referring now to the note of \$242,100.00, which applicant executed to secure a portion of the proceeds for the expenditures incurred on capital account during July and August, 1913, the details of these expenditures appear on pages 10 and 11 of the application, the total amount being \$258,600.00. These expenditures were incurred partly for additional telephones, partly for new switchboards, tollboards, trunk sections and other equipment installed in different stations of applicant in California, Oregon and Washington. As the bonds which applicant asks authority to issue will be a lien on California property, it will be necessary for this Commission, under the provisions of section 52 of the Public Utilities Act, to pass on all of the bonds, including those whose proceeds will be used to take up expenditures incurred in Oregon and Washington.

I recommend that this portion of the application be granted.

Referring now to the extensions and improvements which applicant contemplates installing during the remaining portion of this year, the details of the contemplated expenditures are specified on pages 12, 13

and 14 of the application. These items include the installation of additional central office equipment in Seattle, San Francisco, Los Angeles, and Oakland, the partial payment for central office equipment already started in various offices in California, Oregon and Washington, certain underground conduit and cable work in Portland, San Francisco, and Los Angeles, and new toll leads and additional toll circuits in Oregon, Washington and California, as stated at the hearing, the sum of \$1,001,600.00.

I recommend that this portion of the application also be granted.

It is evident that applicant's financial condition is very favorable and that applicant will have no difficulty in meeting the interest and sinking fund obligations in connection with the proposed issue.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for authority to issue bonds of the face value of \$3,000,000.00, to be payable on January 2, 1937, and to bear interest at the rate of 5 per cent per annum, payable semiannually, and secured by mortgage or deed of trust to Mercantile Trust Company of San Francisco, dated January 2, 1907, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that The Pacific Telephone and Telegraph Company is hereby authorized to issue three million (\$3,000,000) dollars, face value, of principal of bonds of said company, numbered 10001 to 13000, both numbers inclusive, maturing on January 2, 1937, bearing interest at the rate of 5 per cent per annum, payable semiannually on the second day of January and July of each year, under and in pursuance of the terms of the mortgage or deed of trust made and executed by the Pacific Telephone and Telegraph Company to Mercantile Trust Company of San Francisco, trustees, dated January 2, 1907, and supplemental indentures, dated April 1, 1909, and November 2, 1909, on the following conditions and not otherwise, to wit:

1. Said bonds shall be sold so as to net applicant not less than ninety-six and three tenths (96.3%) per cent of their face value and accrued interest at 5 per cent from July 2, 1913.

2. The proceeds from the sale of said bonds shall be used only for the following purposes:

(a) To reimburse applicant for expenditures incurred in taking up bonds of Sunset Telephone and Telegraph Company under issue of February 2, 1900, secured by mortgage or deed of trust to Old Colony Trust Company, not to exceed the sum of \$1,850,000.00.

(b) To pay applicant's note, the proceeds of which were in part

used for capital expenditures during the months of July and August, 1913, which said expenditures are set forth in full on pages 10 and 11 of the application herein, not to exceed the sum of \$242,100.00.

(c) For the acquisition of property and the construction, completion, and extension of facilities for the items specified on pages 12, 13 and 14 of the application herein, not to exceed the sum of \$796,900.00.

3. The Pacific Telephone and Telegraph Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The Pacific Telephone and Telegraph Company shall file with this Commission a certified copy of such statement or statements as it may file with Mercantile Trust Company of San Francisco for the purpose of securing the release of the bonds hereby authorized to be issued.

5. This order shall apply only to bonds issued prior to October 1, 1914.

6. The authority hereby given to issue bonds shall not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act as amended.

The foregoing opinion and order are hereby approved and ordered filed as as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of October, 1913.

DECISION No. 1035.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT
AND POWER CORPORATION FOR AN ORDER AUTHORIZ-
ING THE ISSUE OF BONDS.

Application No. 721.

Decided October 25, 1913.

Held, That application of Pacific Light and Power Corporation to issue \$1,730,000.00 face value of bonds, proceeds to be used to reimburse treasury for money expended, denied, without prejudice.

S. M. Haskins, for Applicant.

Applicant lists its outstanding bonded indebtedness as follows:

| | |
|--|-----------------|
| 1. Bonds of Sunset Telephone and Telegraph Company, dated July 15, 1900, and due October 1, 1929, 5 per cent----- | \$1,812,000 00 |
| 2. Bonds of The Pacific Telephone and Telegraph Company, dated 1907, due 1937, 5 per cent—authorized \$35,000,000, outstanding ----- | 32,000,000 00 |
| 3. Bonds of Home Long Distance Telephone Company, dated March 15, 1912, due January 12, 1932, outstanding----- | 7,080,000 00 |
| Total bonded indebtedness ----- | \$40,892,000 00 |

On page 5 of its application, applicant lists its notes and accounts payable, totaling \$1,279,838.31.

Applicant's assets and liabilities as claimed by it as of July 31, 1913, amount to \$102,040,070.62. It is not necessary in this proceeding to examine the items entering into the assets or the liabilities for the reason that it appears that there is a sufficient margin between the value of the property and the amount of bonds which will be outstanding if the bonds now applied for are issued.

Referring to the revenues and operating expenses, applicant reports a net income for the eight months ending August 31, 1913, amounting to \$1,453,454.00.

Applicant now asks authority to issue the remaining \$3,000,000.00, face value, of its bond issue secured by deed of trust to Mercantile Trust Company of San Francisco, dated January 2, 1907. Applicant has entered into a contract with Lee, Higginson & Company of Boston to sell these bonds at 96.3 per cent of their face value if delivered by October 31, 1913, in Boston. Lee, Higginson & Company has already paid 60 per cent on the amount to be paid by it under this contract. If these bonds are sold for this price the sum of \$2,889,000.00 will be realized from their sale. Applicant desires to use these proceeds as follows:

| | |
|---|----------------|
| 1. To redeem bonds of the Sunset Telephone and Telegraph Company, secured by mortgage or deed of trust to Old Colony Trust Company, dated February 2, 1900 the sum of | \$1,850,000 00 |
| 2. To take up note given for expenditures incurred on capital account during July and August, 1913----- | 242,100 00 |
| 3. To apply on extensions and improvements chargeable to capital account which applicant estimates will be necessary during the remainder of the year 1913----- | 1,026,100 00 |
| Total ----- | \$3,118,200 00 |

As it is evident that the amount thus to be expended is in excess of the proceeds to be realized from the sale of the bonds, it seems clear that a portion of the money estimated to be necessary for the extensions and improvements during the balance of the year 1913 will have to be derived from some other source.

I shall now refer somewhat more in detail to each of the three purposes for which applicant desires to use the proceeds from the sale of these bonds.

Referring first to the bonds of the Sunset Telephone and Telegraph Company, it appears that the bonds which applicant now desires to issue were reserved for the purpose of paying off bonds of the face value of \$2,250,000.00 of the Sunset Telephone and Telegraph Company's issue. Of these bonds \$1,812,000.00 were outstanding prior to October 1, 1913. The remaining bonds of the total of \$2,250,000.00 were in the sinking fund. In accordance with an agreement between the applicant and the Sunset Telephone and Telegraph Company, entered into at the time when the applicant acquired the Sunset's property, it was made the duty of the applicant to call in the outstanding Sunset bonds on October 1, 1913. Applicant did so, paying 105 per cent of the face value. In order to retire these bonds applicant borrowed \$160,000.00 on its one-day promissory notes and secured from Lee, Higginson & Company on their contract to purchase the bonds for which authorization is now requested, the sum of \$1,755,400.00, which sum includes some accrued interest. Applicant has already paid from other sources something over \$52,000.00 of the total amount necessary to redeem the Sunset bonds, and now asks authority to use the proceeds of the bonds now to be issued up to \$1,850,000.00 to refund indebtedness incurred in taking up the Sunset bonds.

While recommending, on the facts of this case, that this portion of the application be granted, I do not desire to be understood as passing on the question whether it is proper to capitalize the premium of 5 per cent which was paid to call in the Sunset bonds.

Referring now to the note of \$242,100.00, which applicant executed to secure a portion of the proceeds for the expenditures incurred on capital account during July and August, 1913, the details of these expenditures appear on pages 10 and 11 of the application, the total amount being \$258,600.00. These expenditures were incurred partly for additional telephones, partly for new switchboards, tollboards, trunk sections and other equipment installed in different stations of applicant in California, Oregon and Washington. As the bonds which applicant asks authority to issue will be a lien on California property, it will be necessary for this Commission, under the provisions of section 52 of the Public Utilities Act, to pass on all of the bonds, including those whose proceeds will be used to take up expenditures incurred in Oregon and Washington.

I recommend that this portion of the application be granted.

Referring now to the extensions and improvements which applicant contemplates installing during the remaining portion of this year, the details of the contemplated expenditures are specified on pages 12, 13

and 14 of the application. These items include the installation of additional central office equipment in Seattle, San Francisco, Los Angeles, and Oakland, the partial payment for central office equipment already started in various offices in California, Oregon and Washington, certain underground conduit and cable work in Portland, San Francisco, and Los Angeles, and new toll leads and additional toll circuits in Oregon, Washington and California, as stated at the hearing, the sum of \$1,001,600.00.

I recommend that this portion of the application also be granted.

It is evident that applicant's financial condition is very favorable and that applicant will have no difficulty in meeting the interest and sinking fund obligations in connection with the proposed issue.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for authority to issue bonds of the face value of \$3,000,000.00, to be payable on January 2, 1937, and to bear interest at the rate of 5 per cent per annum, payable semiannually, and secured by mortgage or deed of trust to Mercantile Trust Company of San Francisco, dated January 2, 1907, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that The Pacific Telephone and Telegraph Company is hereby authorized to issue three million (\$3,000,000) dollars, face value, of principal of bonds of said company, numbered 10001 to 13000, both numbers inclusive, maturing on January 2, 1937, bearing interest at the rate of 5 per cent per annum, payable semiannually on the second day of January and July of each year, under and in pursuance of the terms of the mortgage or deed of trust made and executed by the Pacific Telephone and Telegraph Company to Mercantile Trust Company of San Francisco, trustees, dated January 2, 1907, and supplemental indentures, dated April 1, 1909, and November 2, 1909, on the following conditions and not otherwise, to wit:

1. Said bonds shall be sold so as to net applicant not less than ninety-six and three tenths (96.3%) per cent of their face value and accrued interest at 5 per cent from July 2, 1913.

2. The proceeds from the sale of said bonds shall be used only for the following purposes:

(a) To reimburse applicant for expenditures incurred in taking up bonds of Sunset Telephone and Telegraph Company under issue of February 2, 1900, secured by mortgage or deed of trust to Old Colony Trust Company, not to exceed the sum of \$1,850,000.00.

(b) To pay applicant's note, the proceeds of which were in part

used for capital expenditures during the months of July and August, 1913, which said expenditures are set forth in full on pages 10 and 11 of the application herein, not to exceed the sum of \$242,100.00.

(c) For the acquisition of property and the construction, completion, and extension of facilities for the items specified on pages 12, 13 and 14 of the application herein, not to exceed the sum of \$796,900.00.

3. The Pacific Telephone and Telegraph Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The Pacific Telephone and Telegraph Company shall file with this Commission a certified copy of such statement or statements as it may file with Mercantile Trust Company of San Francisco for the purpose of securing the release of the bonds hereby authorized to be issued.

5. This order shall apply only to bonds issued prior to October 1, 1914.

6. The authority hereby given to issue bonds shall not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act as amended.

The foregoing opinion and order are hereby approved and ordered filed as as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of October, 1913.

DECISION No. 1035.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT
AND POWER CORPORATION FOR AN ORDER AUTHORIZ-
ING THE ISSUE OF BONDS.

Application No. 721.

Decided October 25, 1913.

Held, That application of Pacific Light and Power Corporation to issue \$1,730,000.00 face value of bonds, proceeds to be used to reimburse treasury for money expended, denied, without prejudice.

S. M. Haskins, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Pacific Light and Power Corporation for an order authorizing the issue of \$1,730,000.00 face value of forty-year five per cent gold bonds.

The purposes for which the proceeds from the sale of these bonds are to be used are stated in the application as follows:

"To reimburse its treasury for moneys expended to refund 497 underlying bonds of Pacific Light and Power Corporation, of the face value of \$497,000.00.

"To sell 1,233 of said bonds to reimburse its treasury for moneys actually expended from income and from other moneys in the treasury not secured by or obtained from the issue of stock or stock certificates, or bonds, within three years last past, said moneys having been expended by petitioner for the acquisition of property, and for the construction, completion, extension and improvement of its facilities, and for the improvement of its services."

It appears from the evidence introduced at the hearing that 497 underlying bonds on constituent properties of the Pacific Light and Power Corporation were purchased by applicant at a price not to exceed par, and placed in a sinking fund. The testimony is that the money used for this purchase was taken from the treasury of applicant, and we are now asked to authorize the issue of a like number of applicant's bonds which are to be sold to reimburse the treasury of applicant for this expenditure. The request is for authority to sell these bonds at not less than 83 per cent of their face value.

The obvious effect of carrying out this plan would be to refund underlying bonds with an issue of a like number of new bonds, the discount to be taken care of in some way not disclosed.

The main purpose of a sinking fund is to gradually reduce indebtedness created by the issuance of bonds, and in order to carry out such purpose, the sinking fund should, under ordinary circumstances, be maintained from the earnings of a corporation, or at least from sources other than those which create new obligations. Manifestly, to permit the issuance of new bonds with which to acquire underlying bonds to be placed in a sinking fund, in effect, continues the indebtedness of the company and defeats the real purpose of the sinking fund. Of course, if the financial condition of the company is such that its earnings and margin of property over indebtedness warrants the continuance of its obligations undiminished, this process might not be objectionable, but unless this condition is disclosed the real purpose of creating the sink-

ing fund should be adhered to and it should be maintained out of earnings, thus diminishing the obligations of the corporation.

In the present case, the showing made by applicant is not sufficient to warrant the conclusion that its financial condition is such as to warrant a departure from the real purpose of the sinking fund by way of refunding the same.

The second purpose stated, for which the proceeds of 1,233 bonds are to be used, is for the reimbursement of the treasury for certain specified capital expenditures made within a period of three years last past.

The Public Utilities Act provides in section 52 (*b*) that the public utility may issue stocks, bonds, notes and other evidences of indebtedness for the purpose, among others, of the reimbursement for moneys actually expended from income or from any other moneys in the treasury of the public utility not secured or obtained from the issue of stock or stock certificates or bonds, notes or other evidences of indebtedness of such public utility.

It is clear from the above, that it was the purpose of the legislature to permit the reimbursement of the treasury for money spent on capital account only where such money was not obtained by the issuance of stock or evidences of indebtedness. In other words, the purpose was to prevent double capitalization.

Therefore, it should be made clear upon an application of this kind that the money expended from the treasury for which reimbursement is asked, was not obtained through the issuance of stock or evidences of indebtedness. In this case, no such showing is made, and it is impossible to determine from the reports of this corporation on file with this Commission from what sources the money represented by the detailed expenditure was obtained. In fact, from the reports on file with this Commission, it does not appear that there was a surplus in the treasury of applicant at the times of the indicated expenditures sufficient to cover such expenditures, and the conclusion would be from this situation that the money must have been obtained from sources other than earnings. In fact, it was stated at the hearing by representatives of applicant, that a floating debt was maintained and from time to time bonds were sold to pay off this floating debt. If this is the real situation, that is to say, if applicant borrowed money, giving evidences of indebtedness therefor, and with this money made the capital expenditures detailed in the application, it should now ask to refund these obligations, rather than to reimburse its treasury. This involves something more than a matter of form, because if the request is for refunding, applicant must specify the obligations to be refunded, including

the interest paid, the person to whom due, etc., and the Commission in its order would provide that these identical obligations must be paid with the proceeds of the sale of bonds asked to be authorized. Under the present form of application, if granted, the Commission simply authorizes the putting of the proceeds of the sale of the bonds into the treasury of applicant with no direction as to what should be done with such money, leaving applicant at liberty to use it as it sees fit, and it might be that applicant would permit its obligations to remain outstanding, using this money for some other purposes, when we would have the situation that the bonds would be issued against money for which there would be already outstanding other evidences of indebtedness. In other words, we would have double capitalization.

Under the circumstances, I recommend that this application be denied, with permission to applicant to amend this application or file a supplemental application or to make an additional showing as to the money in its treasury from which the expenditures indicated were made, and also a showing as to its financial condition, justifying the capitalization of its sinking fund by the issuance of new bonds to take the place of underlying bonds retired into the sinking fund.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Pacific Light and Power Corporation for an order authorizing the issue of \$1,730,000.00 face value of its forty-year five per cent gold bonds, and a public hearing having been had thereon, and it appearing to the Commission that a sufficient showing has not been made by applicant to warrant the granting of said application,

It is hereby ordered that this application be and the same is hereby denied, with permission, however, to applicant to amend its application or file a supplemental application, or to introduce under this application additional evidence of the character indicated in the foregoing opinion.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of October, 1913.

DECISION No. 1036.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC
LIGHT AND POWER CORPORATION FOR AUTHORITY
TO ISSUE STOCK.

Application No. 722.

Decided October 25, 1913.

Application of Pacific Light and Power Corporation to issue 523 shares of its second preferred capital stock to be exchanged for a like amount of stock of the Pacific Light and Power Company, now outstanding. granted.

S. M. Haskins, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Pacific Light and Power Corporation for an order authorizing the issue of 523 shares of its second preferred capital stock.

The second paragraph of the application herein fully sets out the reasons for making this application, and as the allegations contained in this paragraph were fully sustained by the evidence introduced at the hearing, I quote this paragraph in full as follows:

"That petitioner was incorporated in 1910 for the purpose, among other things, of acquiring all the properties of the Pacific Light and Power Company, a corporation. That soon after such incorporation your petitioner acquired the entire plant and properties of said Pacific Light and Power Company, and offered its second preferred stock in exchange, share for share, for the outstanding stock of said Pacific Light and Power Company. That in pursuance of such offer, and prior to March, 23, 1912, such exchange of stock was effected, except as to 523 shares of said Pacific Light and Power Company stock, which was still outstanding after said date, when the Public Utilities Act became effective. That thereafter, to wit, during April and May, 1912, said 523 shares of stock were exchanged by the holders thereof for 523 shares of the second preferred stock of petitioner. That in so issuing 523 shares of the second preferred stock during April and May, 1912, your petitioner did not unintentionally disregard the provisions of the Public Utilities Act, such exchange being made in pursuance of such offer made in the year 1910. That your petitioner has made arrangements to call in and cancel the certificates of stock issued to evidence said 523 shares, and it is desired to issue new certificates in lieu thereof."

Under all the circumstances, I believe that applicant should be allowed to acquire the remaining outstanding stock of the Pacific

Light and Power Company by exchanging therefor a like number of shares of second preferred stock of the Pacific Light and Power Corporation, thus completing a transaction by which the Pacific Light and Power Corporation obtains the ownership of all of the property and all of the capital stock of the Pacific Light and Power Company.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by the Pacific Light and Power Corporation for an order authorizing the issue of 523 shares of its second preferred capital stock, and a public hearing having been had thereon, and it appearing to the Commission that the property to be secured by the issue of said stock is necessary and reasonably required by said company, and that the purposes for which the proceeds of the issue of said stock are to be used are not, in whole or in part, reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Pacific Light and Power Corporation of 523 shares of its second preferred capital stock, upon the following conditions, not otherwise:

Said stock shall be exchanged for a like number of shares of the capital stock of the Pacific Light and Power Company.

Pacific Light and Power Corporation shall from time to time, as the exchanges of stock herein authorized are made, report to the Commission the fact of such exchanges of stock.

The authority hereby given to issue such stock shall apply only to stock issued by said company on or before the fifteenth day of May, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of October, 1913.

DECISION No. 1037.

THE CHAMBER OF COMMERCE OF REDLANDS

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY ET AL.

Case No. 448.

Decided October 25, 1913.

REPORT OF THE COMMISSION.

ORDER TO DISMISS.

Complainant herein, the Redlands Chamber of Commerce of Redlands, having filed with this Commission a request, in writing, that the complaint herein be withdrawn and dismissed,

It is hereby ordered that the complaint in the above entitled matter be and the same is hereby dismissed

Dated at San Francisco, California, this 25th day of October, 1913.

DECISION No. 1038.

IN THE MATTER OF THE APPLICATION OF THE SANGER TELEPHONE COMPANY FOR AUTHORITY TO SELL ITS RIGHT, TITLE, AND INTEREST IN CERTAIN TELEPHONE LINES AND APPURTENANCES THERETO LOCATED IN FRESNO COUNTY, CALIFORNIA, AND OF ROSS B. MATKINS FOR AUTHORITY TO PURCHASE THE SAME.

Application No. 703.

Decided October 25, 1913.

Application of the Sanger Telephone Company to sell to Ross B. Matkins, for the sum of \$10,000.00, a certain telephone plant situated in Fresno County, granted.

F. C. Huebner, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by J. N. Lisle and Guy Johnson, present owners of the Sanger Telephone Company, for permission to dispose of all their interests in that company to Ross B. Matkins.

In the form in which it was originally filed, this application was made to involve certain transactions between the applicants having to do with the method of payments for the transfer of interests in this telephone system in lieu of cash payments therefor. This Commission is not particularly concerned in considerations foreign to the public interest, and at the hearing which was held, the applicants were directed to file an amended application involving only those matters which are of public interest in the transfer of ownership of this public utility. The order herein recommended is made contingent upon the filing of such amended application by the applicants.

The owners of the telephone system involved in this application acquired ownership through a purchase of the same from The Pacific Telephone and Telegraph Company on June 1, 1911, the transfer being made effective as of May 1, 1911. The purchase price paid to The Pacific Telephone and Telegraph Company was fifty-six hundred dollars (\$5600.00); terms, one thousand dollars (\$1,000.00) cash; the balance payable in semiannual payments of five hundred (\$500.00) dollars, with interest at 7 per cent per annum, and secured by a first mortgage in favor of The Pacific Telephone and Telegraph Company.

At the time of filing this application three thousand (\$3,000.00) dollars of the purchase price had been paid in and twenty-six hundred (\$2600.00) dollars is still unpaid, this latter amount representing present amount due on mortgage held by The Pacific Telephone and Telegraph Company.

A statement of the financial condition of the Sanger Telephone Company, which is made a part of this application, shows that there is no bonded indebtedness against the Sanger Telephone Company; that the only indebtedness now outstanding is the amount still due under the mortgage above mentioned, namely, twenty-six hundred (\$2600.00) dollars and six hundred (\$600.00) dollars, covered by a note unsecured. The prospective purchaser, Ross B. Matkins, agrees to assume this indebtedness.

The price to be paid by the prospective purchaser for all of the right, title and interest in this property is ten thousand (\$10,000.00) dollars. The present owners of the system testified at the hearing that they have put back into plant all of the earnings of the business since they acquired possession, and that by reason of improvements and additions which have been made, the value of this property is now approximately ten thousand (\$10,000.00) dollars, which is the price agreed upon in this proposed sale. Sufficient detailed items of property and of valuations were not submitted to enable the Commission to accurately determine the value of the telephone system, and the Commission reserved the right to withhold its approval of the valuation upon the basis on which

the transfer is to be made as a basis for fixing the rates. However, it was shown that on the basis of the telephones in service at the time of making the application, a total investments of ten thousand (\$10,000.00) dollars would represent an investment per telephone sufficiently conservative to remove any reasonable element of uncertainty as to valuations.

Since the hearing was held the applicants have filed their amended application and a detailed inventory and appraisal of plant and property, which inventory and appraisal appear to justify this valuation.

The applicants testified that the prospective purchaser is better able, financially, to conduct the business than are its present owners, and one of the present owners, who is an experienced telephone man, will continue in the active employ of the company.

It appears to this Commission that the public interests will be subserved by the granting of this application. The following order is, therefore, recommended:

ORDER.

Application having been made by the Sanger Telephone Company, through its present owners, J. N. Lisle and Guy Johnson, operating a telephone system as a public utility in and adjacent to the town of Sanger, Fresno County, California, for authority to sell all its right, title and interest in certain telephone lines and appurtenances thereto, located in Fresno County, California, and of Ross B. Matkins for authority to purchase the same, and a public hearing having been held thereon, and it appearing that the public interest will be subserved if the proposed transfer is made,

It is hereby ordered that the application of the Sanger Telephone Company, through its present owners, J. N. Lisle and Guy Johnson, to sell, and of Ross B. Matkins to purchase all of the right, title and interest in certain telephone lines and appurtenances thereto of the Sanger Telephone Company, located in Fresno County, California, in accordance with the terms and conditions and in the amount set forth in the opinion herewith, be and the same hereby is granted, provided that the price paid for the property herein authorized to be transferred shall not be taken before this Commission or any other public authority as representing for rate fixing or other purposes the present value of the property transferred. This order to be and become effective from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of October, 1913.

THE ATTORNEY GENERAL OF THE PACIFIC
SOUTH-WESTERN TELEPHONE COMPANY FOR PERMIS-
SION TO ABANDON ITS TELEPHONE EXCHANGES
AT PACIFIC GROVE AND MONTEREY. MONTEREY
TELEPHONE EXCHANGE TO INCREASE THE RATES
TO BE CHARGED FOR SERVICE AT PACIFIC GROVE.

STATE OF CALIFORNIA.

IN SENATE,

January 10, 1907. The Senate of the State of California on the petition of the Pacific
South-Western Telephone Company, do hereby order that the rates to be charged at Monterey, and to
be charged at Pacific Grove, be increased to the same rates as are charged at Monterey with its Monterey
exchange.

W. H. HATHI, Clerk of the Senate.

W. H. HATHI, Clerk of the Senate, City Attorney, for the City
of Monterey.

W. H. HATHI, Clerk of the Senate, City Attorney, for the City of
Pacific Grove.

REPORT OF THE COMMISSION.

THE COMMISSIONERS OF THE PUBLIC UTILITIES

There is no objection to the petition to consolidate petitioner's tele-
phone exchanges at Pacific Grove and Monterey by abandoning the
Pacific Grove exchange and connecting petitioner's Pacific Grove sub-
scribers directly with the Monterey exchange. This Commission's
action is necessary for the reason that if the change is made,
Pacific Grove subscribers will take the same rate as other subscribers in
the territory served by the Monterey exchange, which rate will be as to
almost all Pacific Grove subscribers an increase over the present rate.

Pacific Grove is at the present time served by a telephone exchange
operating what is known to telephone men as the "magneto system"
and to laymen as the "two-off-grinder system." Under this system if
a customer desires to secure central he does so by turning a crank, which
rings a bell at the exchange. If the operator wants to secure the sub-
scriber she rings a bell which rings every other bell on the line. The
ringing of these bells causes considerable inconvenience. Under this
system it is also necessary for central to "listen in" to see whether the
conversation has been concluded.

Free exchange switching exists between the Pacific Grove and Monterey exchanges. Messages between these exchanges are conveyed by means of some nine trunk lines. A Pacific Grove subscriber desiring to converse with a Monterey subscriber first calls for the Pacific Grove central, who in turn calls up the Monterey central, who then secures the party at the other end. The message passes through two centrals and is consequently delayed as compared with the conditions which would obtain if there were only a single central. Frequent complaints have been expressed on the part of the Pacific Grove subscribers and also Monterey subscribers that it has been impossible to secure adequate service for messages between these two points, for the reason that the existing trunk lines are insufficient to handle the business. When nine persons are conversing between Monterey and Pacific Grove, no more can converse unless additional trunk lines are installed.

The Pacific Telephone and Telegraph Company now proposes to run all Pacific Grove subscribers' lines directly into the Monterey exchange and to substitute the common battery system for the old coffee-grinder system in Pacific Grove. The company proposes to construct a cable containing 300 pairs of wires from Monterey to Pacific Grove, so that each subscriber in Pacific Grove will have a wire running directly into the Monterey exchange. The coffee-grinder telephones in Pacific Grove will be taken out and common battery instruments substituted.

By changing to the common battery system, the amount of ringing of telephone bells at Pacific Grove will be reduced practically one half. On a two-party line there will be only one ring, which will be the ring for the subscriber affected, while on four-party lines there will be only two rings instead of five possible rings as at the present time. By eliminating one exchange, communication between Pacific Grove and Monterey will be made more expeditious, and by running the wires of Pacific Grove subscribers directly into the Monterey exchange, the "line busy" answer, as applied to trunk lines between Pacific Grove and Monterey, will be eliminated. Three hundred pairs of wires are considerably in excess of the present demand in Pacific Grove and will be sufficient to serve a material growth in population and in the number of telephone users. The result of the proposed change will be to give to Pacific Grove an up-to-date efficient telephone system in lieu of their present system.

If this change is effected, the rates paid by Pacific Grove subscribers will be made the same as those paid by the other subscribers who will be served from the Monterey exchange. The rate paid by nearly every subscriber in Pacific Grove will be increased. Most of these increases will be either 25 cents or 50 cents per month; 222 subscribers will have their rates increased 25 cents per month; 35 subscribers 50 cents per month, and 27 subscribers \$1.00 per month, provided that The Pacific

In the form in which it was originally filed, this application was made to involve certain transactions between the applicants having to do with the method of payments for the transfer of interests in this telephone system in lieu of cash payments therefor. This Commission is not particularly concerned in considerations foreign to the public interest, and at the hearing which was held, the applicants were directed to file an amended application involving only those matters which are of public interest in the transfer of ownership of this public utility. The order herein recommended is made contingent upon the filing of such amended application by the applicants.

The owners of the telephone system involved in this application acquired ownership through a purchase of the same from The Pacific Telephone and Telegraph Company on June 1, 1911, the transfer being made effective as of May 1, 1911. The purchase price paid to The Pacific Telephone and Telegraph Company was fifty-six hundred dollars (\$5600.00); terms, one thousand dollars (\$1,000.00) cash; the balance payable in semiannual payments of five hundred (\$500.00) dollars, with interest at 7 per cent per annum, and secured by a first mortgage in favor of The Pacific Telephone and Telegraph Company.

At the time of filing this application three thousand (\$3,000.00) dollars of the purchase price had been paid in and twenty-six hundred (\$2600.00) dollars is still unpaid, this latter amount representing present amount due on mortgage held by The Pacific Telephone and Telegraph Company.

A statement of the financial condition of the Sanger Telephone Company, which is made a part of this application, shows that there is no bonded indebtedness against the Sanger Telephone Company; that the only indebtedness now outstanding is the amount still due under the mortgage above mentioned, namely, twenty-six hundred (\$2600.00) dollars and six hundred (\$600.00) dollars, covered by a note unsecured. The prospective purchaser, Ross B. Matkins, agrees to assume this indebtedness.

The price to be paid by the prospective purchaser for all of the right, title and interest in this property is ten thousand (\$10,000.00) dollars. The present owners of the system testified at the hearing that they have put back into plant all of the earnings of the business since they acquired possession, and that by reason of improvements and additions which have been made, the value of this property is now approximately ten thousand (\$10,000.00) dollars, which is the price agreed upon in this proposed sale. Sufficient detailed items of property and of valuations were not submitted to enable the Commission to accurately determine the value of the telephone system, and the Commission reserved the right to withhold its approval of the valuation upon the basis on which

the transfer is to be made as a basis for fixing the rates. However, it was shown that on the basis of the telephones in service at the time of making the application, a total investments of ten thousand (\$10,000.00) dollars would represent an investment per telephone sufficiently conservative to remove any reasonable element of uncertainty as to valuations.

Since the hearing was held the applicants have filed their amended application and a detailed inventory and appraisal of plant and property, which inventory and appraisal appear to justify this valuation.

The applicants testified that the prospective purchaser is better able, financially, to conduct the business than are its present owners, and one of the present owners, who is an experienced telephone man, will continue in the active employ of the company.

It appears to this Commission that the public interests will be subserved by the granting of this application. The following order is, therefore, recommended:

ORDER.

Application having been made by the Sanger Telephone Company, through its present owners, J. N. Lisle and Guy Johnson, operating a telephone system as a public utility in and adjacent to the town of Sanger, Fresno County, California, for authority to sell all its right, title and interest in certain telephone lines and appurtenances thereto, located in Fresno County, California, and of Ross B. Matkins for authority to purchase the same, and a public hearing having been held thereon, and it appearing that the public interest will be subserved if the proposed transfer is made,

It is hereby ordered that the application of the Sanger Telephone Company, through its present owners, J. N. Lisle and Guy Johnson, to sell, and of Ross B. Matkins to purchase all of the right, title and interest in certain telephone lines and appurtenances thereto of the Sanger Telephone Company, located in Fresno County, California, in accordance with the terms and conditions and in the amount set forth in the opinion herewith, be and the same hereby is granted, provided that the price paid for the property herein authorized to be transferred shall not be taken before this Commission or any other public authority as representing for rate fixing or other purposes the present value of the property transferred. This order to be and become effective from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of October, 1913.

Decisions Nos. 1039 and 1040, grade crossings: not printed. See end of volume.

DECISION No. 1041.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO CONSOLIDATE ITS TELEPHONE EXCHANGES AT PACIFIC GROVE AND MONTEREY, MONTEREY COUNTY, CALIFORNIA, AND TO INCREASE THE RATES CHARGED TO SUBSCRIBERS AT PACIFIC GROVE.

Application No. 713.

Decided October 25, 1913.

Application of the Pacific Telephone and Telegraph Company to abandon its Pacific Grove exchange by consolidating same with its exchange at Monterey, and to increase rates of the Pacific Grove subscribers to a parity with its Monterey rates, granted.

James T. Shaw, for Applicant.

J. P. Pryor, mayor, and *H. C. Jorgensen*, city attorney, for the City of Pacific Grove.

R. F. Johnson, mayor, and *P. E. Treat*, city attorney, for the City of Monterey.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to consolidate petitioner's telephone exchanges at Pacific Grove and Monterey by abandoning the Pacific Grove exchange and connecting petitioner's Pacific Grove subscribers directly with the Monterey exchange. This Commission's authorization is necessary for the reason that if the change is made, Pacific Grove subscribers will take the same rate as other subscribers in the territory served by the Monterey exchange, which rate will be as to almost all Pacific Grove subscribers an increase over the present rate.

Pacific Grove is at the present time served by a telephone exchange operating what is known to telephone men as the "magneto system" and to laymen as the "coffee-grinder system." Under this system if a customer desires to secure central he does so by turning a crank, which rings a bell at the exchange. If the operator wants to secure the subscriber she rings a bell which rings every other bell on the line. The ringing of these bells causes considerable inconvenience. Under this system it is also necessary for central to "listen in" to see whether the conversation has been concluded.

Free exchange switching exists between the Pacific Grove and Monterey exchanges. Messages between these exchanges are conveyed by means of some nine trunk lines. A Pacific Grove subscriber desiring to converse with a Monterey subscriber first calls for the Pacific Grove central, who in turn calls up the Monterey central, who then secures the party at the other end. The message passes through two centrals and is consequently delayed as compared with the conditions which would obtain if there were only a single central. Frequent complaints have been expressed on the part of the Pacific Grove subscribers and also Monterey subscribers that it has been impossible to secure adequate service for messages between these two points, for the reason that the existing trunk lines are insufficient to handle the business. When nine persons are conversing between Monterey and Pacific Grove, no more can converse unless additional trunk lines are installed.

The Pacific Telephone and Telegraph Company now proposes to run all Pacific Grove subscribers' lines directly into the Monterey exchange and to substitute the common battery system for the old coffee-grinder system in Pacific Grove. The company proposes to construct a cable containing 300 pairs of wires from Monterey to Pacific Grove, so that each subscriber in Pacific Grove will have a wire running directly into the Monterey exchange. The coffee-grinder telephones in Pacific Grove will be taken out and common battery instruments substituted.

By changing to the common battery system, the amount of ringing of telephone bells at Pacific Grove will be reduced practically one half. On a two-party line there will be only one ring, which will be the ring for the subscriber affected, while on four-party lines there will be only two rings instead of five possible rings as at the present time. By eliminating one exchange, communication between Pacific Grove and Monterey will be made more expeditious, and by running the wires of Pacific Grove subscribers directly into the Monterey exchange, the "line busy" answer, as applied to trunk lines between Pacific Grove and Monterey, will be eliminated. Three hundred pairs of wires are considerably in excess of the present demand in Pacific Grove and will be sufficient to serve a material growth in population and in the number of telephone users. The result of the proposed change will be to give to Pacific Grove an up-to-date efficient telephone system in lieu of their present system.

If this change is effected, the rates paid by Pacific Grove subscribers will be made the same as those paid by the other subscribers who will be served from the Monterey exchange. The rate paid by nearly every subscriber in Pacific Grove will be increased. Most of these increases will be either 25 cents or 50 cents per month; 222 subscribers will have their rates increased 25 cents per month; 35 subscribers 50 cents per month, and 27 subscribers \$1.00 per month, provided that The Pacific

Telephone and Telegraph Company can make good on its claim that there is no longer a four-party business wall telephone rate in effect in the Monterey exchange. It is not necessary in the present application to pass on this point. This Commission's telephone department estimates that the increase in revenue will be about \$1,200.00 per year if the petitioner makes good on its point with reference to the four-party business wall phones.

Petitioner estimates that the cost of making the proposed changes will be \$15,470.00, as follows:

| | |
|---|--------------------|
| Installation of new cable..... | \$12,470 00 |
| Changing telephones in Pacific Grove..... | 3,000 00 |
| Total | \$15,470 00 |

To this sum should be added some \$400.00 or \$500.00 to cover expenditures on the Monterey switchboard, when this board was installed in 1912, which expenditures were incurred for the specific purpose of preparing the exchange for Pacific Grove subscribers under the plan now proposed. It is evident that if this entire amount is added to petitioner's capital account for Pacific Grove there will be a considerable duplication of capital account items. A considerable portion of the present plant must be charged off to depreciation. Nevertheless, a considerable portion of this amount can properly be added to capital account, and it is obvious that consequently some additional return should be allowed to petitioner on its Pacific Grove business. It must be noted, however, in this connection that as a result of the change, petitioner's operating expenses will be reduced to the extent of one operator, whose salary amounts to \$360.00 a year and rent, amounting to \$192.00 per year. It appears, however, that the reduction in operating expenses will not be as much as a reasonable interest on the proper additional capital expenditure made necessary by the proposed change.

It is clear that the service to Pacific Grove subscribers will be much improved by the proposed change, and it seems equally clear that when those subscribers are a part of the Monterey exchange, they should pay the same rates as the other subscribers in that exchange, lest discrimination result. Whether the rates at present charged to subscribers of the Monterey exchange are reasonable is not an issue in this proceeding and need not be decided here. If hereafter a question should arise as to whether the Monterey rates are reasonable rates to be charged in the larger exchange, the Commission will consider with care every element entering into a just solution of that question.

The cities of Monterey and Pacific Grove appeared at the hearing by their respective mayors and city attorneys. The city attorneys were permitted to cross-examine witnesses and availed themselves of that

privilege. Witnesses for the telephone company testified that they had attempted to see all the Pacific Grove subscribers to explain the proposed change and to secure their signatures to contracts under the new system. The result was as follows:

| | |
|--|------------|
| Contracts secured from present subscribers in Pacific Grove..... | 220 |
| Agreeable to change, but not signing..... | 6 |
| Unable to see..... | 21 |
| Failed to express final opinion..... | 12 |
| Declined to sign | 33 |
| Total | 292 |

This canvass was made in accordance with a condition imposed by the city trustees of Pacific Grove, who were unwilling that the change should be effected unless 75 per cent of the Pacific Grove subscribers should sign contracts under the new arrangement. It appears that of the thirty-three who refused to sign the new contracts, the major portion refused to sign because of the increase in the rate. Although the hearing in this proceeding was held in the county seat only a few miles distant from Pacific Grove, and notice of the hearing was sent under the Commission's direction to each of petitioner's customers in Pacific Grove, and the fullest opportunity to appear and be heard was given, no person appeared in opposition to the application. The failure to appear in opposition indicates, to my mind, a general desire on the part of the citizens of Pacific Grove for an up-to-date telephone service and a willingness to pay an additional compensation for an improved service. In this respect the people of Pacific Grove are, in my opinion, advancing the interests of their town as well as their own individual self interest.

In passing on the application in this proceeding, the Commission does not pass on the ordinance adopted by Pacific Grove and to become effective when the change has been completed. There is considerable doubt as to whether there is any need to pass such ordinance. At the hearing the Commission drew the attention of the city authorities of Pacific Grove to several clauses in the ordinance demanding careful consideration unless the ordinance is to be repealed.

I believe that the granting of this application will be a good thing for the people of Pacific Grove, and also for those people in Monterey who may desire to telephone to Pacific Grove, and recommend that the application be granted. It should be distinctly understood that this Commission is not passing upon the reasonableness of the Monterey exchange rates and that nothing in this opinion can be taken to prejudice a proper determination of that question if it should ever come formally before this Commission.

I submit herewith the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for authority to consolidate its telephone exchanges at Pacific Grove and Monterey by abandoning the Pacific Grove exchange and connecting the Pacific Grove subscribers directly with the Monterey exchange, and to substitute a common battery system for the magneto system in Pacific Grove, and to publish, file and make effective the present Monterey exchange telephone rates in the combined area, thereby increasing the rates paid by practically all the Pacific Grove subscribers, and a public hearing having been held upon said application and the Railroad Commission finding that the change is a desirable one,

It is hereby ordered that said application be and the same is hereby granted and that the new rates to be charged to Pacific Grove subscribers may become effective on ten days' notice, after said exchanges have been consolidated.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of October, 1913.

DECISION No. 1042.

J. P. RAMOS

vs.

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS.

Case No. 453.

Decided October 25, 1913.

Held, That defendant's monthly commutation rate of \$4.50 from Ashland to Oakland is unreasonable. Defendant ordered to put in effect a monthly commutation rate between these points of \$3.75.

Herman Walker, for Complainant.

W. H. Smith, Jr., for Defendant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is a complaint for the reduction of monthly commutation rates on the line of defendant railway company between Ashland and Oak-

land. The complaint alleges in effect that complainant and some twenty other patrons of the defendant railway company travel on said company's lines between Ashland station and the city of Oakland almost daily, and that they purchase from said company monthly commutation tickets, for which they are charged the sum of \$4.50; that said charge is excessive and that it should be reduced to \$3.00 per month, the same as the rate between Oakland and the easterly limits of San Leandro; and that the monthly commutation rate now paid between Ashland and Oakland is the same as the rate paid between Hayward and Oakland, Hayward being located three miles beyond Ashland. The complainant accordingly requests that the monthly commutation rate between Ashland and Oakland over the lines of defendant railway company be reduced to \$3.00 per month.

The defendant, in its answer, denies that the present rate is unreasonable and that it should be reduced to the rate obtaining between the easterly limits of the town of San Leandro and the city of Oakland, and alleges that the present rate is a just and reasonable rate. For further answer the defendant alleges that this Commission has no jurisdiction over the subject-matter of the complaint, on the ground that the defendant is operating a street railroad along and upon the public streets of the city of Oakland and the town of San Leandro and the public highways of Alameda County under franchises duly granted for the operation of street railroads; that the city of Oakland and the town of San Leandro have not surrendered to this Commission their powers with respect to street railroads; and that this Commission has no authority to fix the rates of fare or charges for service rendered by the defendant in operating its line of railway between Oakland and Ashland.

The hearing in this case was held on October 1, 1913, at San Francisco.

I shall first dispose of the question of jurisdiction.

Defendant's point is that it operates a street railroad upon the public streets of Oakland and San Leandro and upon a public highway of the county of Alameda, under street railway franchises, and that this Commission has no jurisdiction to establish a fare between Oakland and Ashland. In support of this contention defendant draws attention to the fact that neither the city of Oakland nor the town of San Leandro have surrendered to this Commission the powers over public utilities which were vested in them respectively on March 23, 1912. While it is true, under the provisions of section 19 of article XI of the constitution of this State, as amended on October 10, 1911, that the incorporated cities and towns of the State have the power to establish the rate of fare to be charged by street railroads for transportation over routes lying

entirely within the city or town limits, it seems clear that no city or town has the power to establish the fare to be charged by a street railroad or any other railroad between a point within the city limits and a point outside of the city limits. The municipality's jurisdiction in that respect is confined to the municipality's territory. Prior to March 23, 1912, no public authority in this State had been given the power to establish the fare to be charged by street railroads between a point within the limits of an incorporated town and a point outside of such limits, though under the provisions of section 22 of article XII of the constitution, the Railroad Commission had authority to fix all rates and fares of "railroad or other transportation companies."

On March 23, 1912, the Public Utilities Act of this State became effective. That act, passed under the authority of section 23 of article XII of the constitution of this State, as amended on October 10, 1911, gave to the Railroad Commission the broad powers therein specified, including the power to establish rates or fares, over the classes of public utilities therein specified, including street railroad corporations. The act conferred upon this Commission the entire power over the rates and fares of public utilities other than so far as incorporated cities and towns of the State might have such power. It is provided in section 23 of article XII of the constitution, as amended, that such powers over public utilities as incorporated cities and towns of the State might have on the effective date of the Public Utilities Act, they might retain until the electors at an election called for that purpose should vote to confer them upon the Railroad Commission. Neither the city of Oakland nor the town of San Leandro, nor any other public authority, have had the right prior to March 23, 1912, to establish the fare to be charged by a street railroad or any other kind of railroad between Oakland and Ashland. The power to establish such fare is specifically conferred upon the Railroad Commission by section 32 of the Public Utilities Act, reading in part as follows:

"The commission shall have power, upon hearing, had upon its own motion or upon complaint, to investigate a single rate, fare, toll, rental, charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts and practices, or any thereof, of any public utility, and to establish new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices, or schedule or schedules, in lieu thereof."

Under both section 23 of article XII of the constitution, as amended, and section 2 of the Public Utilities Act, street railroad corporations are expressly declared to be public utilities. It follows that this Commission has jurisdiction over the subject-matter of this complaint, and that the defendant's objection to the jurisdiction must be overruled.

I shall now address myself to the monthly commutation rate between Ashland and Oakland.

Ashland is a community of not over 300 people on the line of the defendant railway company between San Leandro and Hayward. San Leandro adjoins Oakland on the east. The distance between Twelfth and Broadway in Oakland and the easterly limits of San Leandro is 9.4 miles; between Twelfth and Broadway in Oakland and Ashland, 11.6 miles; and between Twelfth and Broadway in Oakland and Hayward, 14 miles. The commutation rate over the line of the defendant railway company between Oakland and the easterly limits of San Leandro is \$3.00 per month. Between Ashland and Oakland the monthly commutation rates are the same as between Hayward and Oakland, being \$4.50 for a commutation book good every day in the month and \$4.00 for a commutation book good each day except Sunday. The complainant testified that between fifteen and twenty commutation passengers use the defendant's line of railway between Ashland and Oakland. Defendant presented its records showing that the average number of commutation tickets presented by Ashland people in the month of September, 1913, was eleven, but that on certain days of the month there were as many as sixteen.

The complaint and answer in this case squarely raise the question of the reasonableness of the monthly commutation rate tickets between Ashland and Oakland. Complainant's contention that the fare to Ashland should be the same as to the easterly limits of San Leandro does not seem reasonable to me, for the reason that Ashland is located 2.2 miles beyond the easterly limits of San Leandro, so that Ashland people making a round trip journey 4.4 miles a day farther than do people living at the easterly limits of San Leandro. I find that it is equally unreasonable to insist that Ashland people should pay as high a commutation rate as Hayward people, who live 2.4 miles beyond Ashland, and consequently journey 4.8 miles farther each round trip than do Ashland people. I find from the facts in this case that it is not reasonable on the one hand to blanket Ashland with San Leandro or on the other to blanket Ashland with Hayward. While the principle of blanketing rates is a very important principle whose application is frequently justified, I find nothing in the facts of this case to justify its application to the facts in this proceeding. This is not a case in which a commutation rate has not heretofore been established and in which a small community is seeking the establishment of such rate. The defendant railway company has applied and now applies a commutation rate to people at Ashland, this rate being the same as that which obtains for Hayward.

Upon a consideration of all the facts of this case, I find that the present monthly commutation rate of \$4.50, good each day in the

month, in effect between Ashland and Oakland, is an unreasonable rate and that a reasonable rate is the sum of \$3.75.

I accordingly submit the following form of order:

ORDER.

A public hearing having been held in the above entitled case, and evidence having been submitted by both parties, and the case having been submitted and being now ready for decision, the Commission hereby finds as a fact that the existing monthly commutation rate of four and 50/100 (\$4.50) dollars, good each day in the month, in effect between Ashland and Oakland on defendant's line of railway, is an unreasonable rate, and that a reasonable rate is the sum of three and 75/100 (\$3.75) dollars.

Basing its order upon the foregoing findings of fact and on the other findings contained in the opinion which precedes this order.

It is hereby ordered that defendant publish and file, effective December 1, 1913, a rate of three and 75/100 (\$3.75) dollars for monthly commutation tickets between Ashland and Oakland, good each day in the month, in other respects to be of the same tenor as the similar \$4.50 ticket now in use between said points.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of October, 1913.

DECISION No. 1043.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED
WATER COMPANY OF POMONA FOR AUTHORITY TO
EXECUTE PROMISSORY NOTES IN THE AMOUNT OF
SIXTEEN THOUSAND ONE HUNDRED DOLLARS.

Application No. 743.

Decided October 27, 1913.

Application of the Consolidated Water Company to execute promissory notes in the amount of \$16,100.00 granted.

J. T. Brady and G. A. Lathrop, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for authority to execute promissory notes in

the total amount of \$16,100.00, as will hereinafter appear in greater detail.

Applicant supplies the larger portion of the city of Pomona with water, almost entirely for domestic purposes. It has an authorized capital stock amounting to \$500,000.00, all of which has been issued. Applicant has outstanding bonds of the face value of \$175,000.00, secured by mortgage or deed of trust on its property; also promissory notes in the amount of \$66,194.85, payment of which has been guaranteed by J. T. Brady and G. A. Lathrop, president and secretary, respectively, of this company. Besides this indebtedness, applicant has accounts payable amounting to several thousand dollars.

In its annual report to this Commission for the year ending December 31, 1912, applicant reported a value of its property amounting to \$468,506.03. At the hearing applicant testified that the value is in excess of \$500,000.00. It is unnecessary in this proceeding to pass on the question of the real value of this property.

Applicant has never declared a dividend. Such profits as it has made have gone back into the property and have been used for extensions, improvements and the acquisition of new property. For the year ending December 31, 1912, applicant reports a net profit, after paying operating expenses and interest, of \$15,136.34.

Applicant now asks authority to issue promissory notes to evidence the indebtedness which is represented by the following notes heretofore issued:

| Name | Amount | Date | Term | Rate of Interest |
|----------------------|------------|---------------|-------------------------|------------------|
| Wash Hunt | \$2,000 00 | Apr. 9, 1912 | Demand..... | 7% |
| Lewis Wright | 5,000 00 | Aug. 5, 1912 | On or before 2 years... | 7% |
| Mary J. Yost..... | 400 00 | July 20, 1912 | On or before 2 years... | 7% |
| Mabel H. Dills..... | 1,000 00 | Sept. 4, 1912 | 3 years | 7% |
| Martha Melsheimer .. | 3,000 00 | Nov. 1, 1912 | 2 years | 7% |
| L. C. Meredith..... | 1,000 00 | Nov. 18, 1912 | On or before 2 years... | 7% |
| Clara J. Pierce..... | 1,200 00 | Jan. 23, 1913 | On or before 2 years... | 7% |
| Fred E. Graham..... | 1,000 00 | Jan. 24, 1913 | On or before 2 years... | 7% |
| Lena McCormick | 1,500 00 | Aug. 31, 1912 | On or before 2 years... | 7% |

These notes were all issued subsequent to the effective date of the Public Utilities Act, without the prior authority of this Commission as required by section 52 of the Public Utilities Act. The notes are consequently void and must be canceled. It appears that the notes were issued in ignorance of the provisions of section 52 of the Public Utilities Act and with no intention to violate any provision of that act.

The proceeds from said notes were used to construct new mains and pipe lines, to purchase additional water-bearing lands, to install an improved fire protection system and to defend applicant's title to its

water supply. Applicant now desires to execute new notes to the payees of the notes illegally issued, or to issue notes for money borrowed to pay off some or all of these notes, the new notes to bear interest at the rate of seven (7) per cent and to be for terms of three (3) years or less.

I find that the moneys for which these notes are to be executed were spent for purposes which are not properly chargeable to operating expenses or to income and recommend that the application be granted.

I submit the following form of order:

ORDER.

Consolidated Water Company of Pomona having applied to the Railroad Commission for authority to execute its promissory notes in the total sum of \$16,100.00, as will hereinafter appear in greater detail, and a public hearing having been held upon this application and the Railroad Commission finding that the borrowed moneys for which it is desired to issue said notes were used for purposes which are not properly chargeable to operating expenses or to income,

It is hereby ordered that Consolidated Water Company of Pomona be and the same is hereby authorized to issue its promissory notes, to bear interest at a rate not to exceed seven (7) per cent per annum, for terms not to exceed three (3) years, to be guaranteed by J. T. Brady and G. A. Lathrop, to evidence the indebtedness of said company to the following persons in the following amounts: Wash Hunt, \$2,000.00; Lewis Wright, \$5,000.00; Mary J. Yost, \$400.00; Lena McCormick, \$1,500.00; Mabel H. Dills, \$1,000.00; Martha Melsheimer, \$3,000.00; L. C. Meredith, \$1,000.00; Clara J. Pierce, \$1,200.00; Fred E. Graham, \$1,000.00, on the following conditions and not otherwise:

1. Said notes shall be issued for not less than their face value.
2. Consolidated Water Company of Pomona shall report to the Railroad Commission the fact and the terms of the issue of each of said notes.
3. The authority hereby given shall apply only to promissory notes issued prior to January 1, 1914.
4. The authority hereby given shall not be effective until applicant has paid the fee prescribed by section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of October, 1913.

Decision No. 1044, grade crossing; not printed. See end of volume.

DECISION NO. 1045.

EAST OAKLAND PROTECTIVE LEAGUE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 396.

Decided October 28, 1913.

Held. That defendant's commutation rate of \$3.50 from Fremont Way and Fairfax avenue to San Francisco, and the commutation rate of \$4.50 from Seminary avenue to San Francisco, and the one-way fare of 15 cents between these points are unjust and discriminatory.

Held. That defendant publish and put in effect within twenty days from date a monthly commutation rate of \$3.00 and a one-way fare of 10 cents between these points.

E. A. Freeman, for Complainant.

C. W. Durbrow, for Defendant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

The Southern Pacific Company, the defendant in this case, maintains and charges the following passenger fares between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue, stations on its Alameda County electric suburban lines within the limits of the city of Oakland.

| Miles | Between— | And— | One-way fare | Individual monthly commutation fare |
|-------|---------------|-----------------------|--------------|-------------------------------------|
| 11.1 | San Francisco | Fremont Way ----- | \$.15 | \$3 50 |
| 11.5 | San Francisco | Fairfax Avenue ----- | .15 | 3 50 |
| 11.8 | San Francisco | Seminary Avenue ----- | .15 | 4 50 |

These fares, the complainant in this case contends, are unreasonable, unjust and discriminatory and should be reduced so as not to exceed 10 cents for the one-way fare and \$3.00 for the individual monthly commutation fare.

The complainant alleges as a cause for complaint, that the fares are in excess of the fares between San Francisco and Melrose and contends that such an adjustment is improper and that the fares in question should not exceed the latter, although Melrose is an intermediate point between San Francisco and Fremont Way. This contention is partly

based on the theory that the additional service beyond Melrose of .3 of a mile to Fremont Way and for .7 of a mile to Fairfax Avenue and 1 mile to Seminary Avenue is so small as not to deserve consideration in adjusting the fares thereto. Manifestly, if this argument advanced by complainant in behalf of Fremont Way, Fairfax Avenue and Seminary Avenue is sound, a point beyond and more distant from San Francisco could set up the same reasons and demand an extension thereto of the Melrose fares, at least, in accordance with complainant's theory, as far as the trains were operated without additional crews, which the complainant contends should fix the breaking point of the fares. Thus the Melrose fare might be extended to Dutton Avenue, or to a point beyond, perhaps as far as the electric line is extended. This is obviously an erroneous proposition. The breaking point must be fixed with regard to other elements than the expense of train crews, and this is not a case where a rule of *de minimus* should apply.

The complainant also contends that the fact that the defendant had, upon beginning of operation of its extension beyond Melrose, voluntarily maintained and charged a one-way fare of 10 cents and an individual monthly commutation fare of \$3.00 between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue, conclusively establishes these fares as reasonable for the service. If it were established that such fares were voluntarily maintained and charged by the defendant, for such a service for a period of time, it would undoubtedly establish these fares as *prima facie* reasonable for the service, but the testimony of the carrier shows that a fare of 10 cents between San Francisco and Fremont Way and Melrose Heights was published and made effective through error on April 12, 1912, and an affidavit to that effect together with data tending to conclusively so indicate, was filed with the Commission by the defendant on April 17, 1912, and the defendant was thereupon permitted to increase this fare to 15 cents, effective June 21, 1912, but approximately two months subsequent to the original publication of the 10 cent one-way fare. The one-way fare of 10 cents was never published and filed in tariffs with this Commission by the carrier to apply between San Francisco and Seminary Avenue, nor was the fare of \$3.00 for an individual monthly commutation ticket published and filed by the carrier in its tariffs to apply between San Francisco and any point beyond Melrose. The only commutation fares which have been published in the tariffs of the defendant between the points in question are the fare of \$3.50 between San Francisco and Fremont Way and Fairfax Avenue and the fare of \$4.50 between San Francisco and Seminary Avenue, and if passengers were permitted to travel beyond Melrose on the \$3.00 individual monthly commutation fare, it was without proper tariff authority, and, as testified by the

defendant, without its authorization. It does not appear, therefore, that the same fares that apply between San Francisco and Melrose were ever voluntarily established and maintained by the carrier between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue, and therefore the fact that through error and without authority, passengers were permitted for a time to travel beyond Melrose at the fares applicable thereto, is no criterion of the reasonableness of the fares in question for that service.

The complainant introduced testimony to the effect that the fares complained of have been detrimental to the sale of real estate in the section beyond Melrose, but obviously this should not be given consideration unless it be shown that by reason of a more favorable voluntary adjustment by the carrier of similar fares to another section and where the transportation conditions and circumstances were similar, that the former section was discriminated against. As a basis for its charge of discrimination the complainant contends that the defendant contemporaneously maintains and charges lower fares for a similar service between San Francisco and Thousand Oaks, a point also on the defendant's Alameda County electric suburban lines more distant from San Francisco via some routes, than Fremont Way, Fairfax Avenue and Seminary Avenue, which are as follows:

| Miles | Between— | And— | One-way fare | Individual monthly commutation fare |
|------------|---------------|---------------------|--------------|-------------------------------------|
| (See note) | San Francisco | Thousand Oaks | \$.10 | \$3 00 |

NOTE.—Via Ninth street line the distance is 12.1 miles; via the California street line the distance is 11.5 miles, and via the Shattuck avenue line the distance is 11.9 miles.

The carrier contends that the fares in question are not unreasonable or discriminatory as compared with other fares for a similar service and *per se*; and further that its present fares between San Francisco and Alameda County suburban points do not yield a return sufficient to cover operating expenses and taxes, not considering interest on bonded debt and a return on the investment, and in justification of the charging of lower fares between San Francisco and Thousand Oaks than between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue, it alleges that it was forced by the competition of the San Francisco-Oakland Terminal Railways to establish the present fares to Thousand Oaks and has not by similar causes been forced to establish similar fares to the points beyond Melrose.

The defendant submitted comparisons between the fares herein involved and like fares for similar distances between points on other lines, but it was not shown that the conditions and circumstances sur-

rounding the fares were sufficiently similar to constitute such comparative fares true standards for similar distances under the circumstances obtaining on the Alameda County electric suburban lines of the defendant. Most of the fares offered in comparison are for service by steam lines, whereas the fares in question are for service over electric lines; and while the record shows that the trains of the defendant in its Alameda County suburban service during the month of June, 1913, were about three to one of those in similar service on the largest line operating out of New York City, with which comparison was made, it also shows that the number of passengers carried by the Southern Pacific Company between San Francisco and Alameda County suburban points on its suburban trains during the same month, greatly exceeded those carried by any single line operating a similar service out of New York; but as the defendant made no showing as to the relative consist of the trains in this class of service on these lines, that is, the average number of cars per train on each line, as a unit of some similarity from which some comparison might be drawn, it is impossible to determine anything of value from this showing. I believe it to be the fact that steam lines, like the ones named in defendant's exhibit, seldom operate less than two-car trains, exclusive of the locomotive, while on the defendant's Alameda County electric lines one-car trains are, in some cases, regularly operated—as on the Ninth street line through Thousand Oaks, and during most of the day on the California street line through the same point.

The average number of passengers per train on the lines operating out of New York City, Chicago and Philadelphia was shown to be in excess of the average on the entire Alameda County suburban lines of the defendant and the average number of passengers carried on the trains beyond Melrose to Fremont Way, Fairfax Avenue or Seminary Avenue, but no average of the number of passengers on the defendant's Seventh street or Melrose line, as a whole, was submitted, which is one of the most traveled of the defendant's suburban lines.

Obviously, to compare the number of passengers traveling beyond Melrose with the entire number of passengers traveling on another route is not a fair comparison, nor do I believe the comparison made with the entire suburban line of the defendant is proper, for the reason that this average includes the recently constructed lines traversing newly opened and partly settled sections of Alameda County, the traffic on which is slight, as must have been expected when the lines were built.

Although the defendant's exhibit contains comparisons with fares of the Northwestern Pacific Railroad and the Pacific Electric Railway for a similar service, no satisfactory showing was made as to the comparative conditions surrounding the fares of these lines. A showing that the density of the traffic on the Northwestern Pacific Rail-

road between San Francisco and Marin County suburban territory and on the Pacific Electric Railway, as a whole, was greater than the density of the traffic on defendant's suburban lines was ineffectual as no comparison was made on any other but a per train basis and this only as to the Northwestern Pacific Railroad, which basis, as heretofore suggested, is not at all conclusive. Even this basis of comparison was lacking as to the Pacific Electric Railway, the defendant relying on the testimony as to the number of passengers carried on the respective lines to show the comparative density of traffic.

In comparing the service of the Northwestern Pacific Railroad between San Francisco and Marin County suburban points with the service of the Southern Pacific Company between San Francisco and Alameda County suburban points, in Case No. 333, in the matter of the fares of the Northwestern Pacific Railroad, the Commission said:

"In all cases the transportation is by rail and ferry, but in the case of the travel from and to Alameda County points the service is between thickly settled communities between which the flow of traffic is more or less regular and closely approaches a street car service, while the service between San Francisco and Marin County suburban points is more or less irregular, being handled mostly during a few hours of the forenoon and the afternoon and the volume of the traffic is considerably less. Again, the service by ferry, an expensive factor, is much shorter in the transportation to Alameda County points, the distance between San Francisco and Sausalito being 6.5 miles and between San Francisco and Alameda County piers averaging approximately 3 miles. In light of these facts it would not, in our opinion, be proper for this Commission to require the defendant to establish the same fare between San Francisco and Marin County suburban points as those voluntarily established between San Francisco and Alameda County points by the carrier serving the latter territory."

No new facts were presented in this proceeding which would lead me to differ from the opinion of the Commission heretofore expressed.

In support of its contention that the Alameda suburban lines do not afford sufficient revenue to satisfy operating expenses and taxes, the carrier presented exhibits showing the details on which the averment is based. In my opinion, the basis therein shown, of apportionment of the expense of maintaining and operating the ferryboats across San Francisco Bay is erroneous and burdens the suburban lines with much expense which should be borne by the main line. This apportionment has been made on the basis of the number of passengers carried, the defendant having found that 90 per cent of the passengers using its ferries across San Francisco Bay originate at or are destined to suburban points, while but 10 per cent originate at or are destined to points beyond Alameda County suburban points and the entire expense of maintaining and operating these ferryboats has been segregated on

these percentages regardless of the fact that many of them are operated of necessity to meet main line trains, which was the original purpose for which the ferry service was established, and would have to be operated if there were no suburban service; and therefore such suburban passengers as use such boats as make connection with main line trains are merely incidental to the trip, the primary purpose of which is to afford transportation to passengers other than those making a suburban trip and which is the essential use of such boats on such trips. The item of maintenance and operation of vessels being one of the largest general items of expense charged to the suburban lines in the exhibit, it follows that any material change in the total of this amount chargeable to the suburban service will materially change the final results and thereby impair the value of the entire exhibit, and from this I conclude that the exhibit does not present with sufficient accuracy the expenses properly attributable to each line, and therefore does not afford a means for determining whether the fares are reasonable or unreasonable.

The building of suburban lines through partly settled sections of Alameda County and the electrification of old steam lines has entailed considerable expenditures by the defendant and it may be possible that some of the newly constructed lines are not producing satisfactory returns; however, these lines were largely projected and built by the defendant to forestall the building into that territory of other competitive lines and are in the nature of experiments, the carrier relying upon the future growth of the communities and the resulting traffic to justify its policy, and it should not therefore expect these lines to yield a profit at once.

Considering now the charge that because of the establishment of lower fares between San Francisco and Thousand Oaks than between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue, that the latter points are unduly discriminated against. The San Francisco-Oakland Terminal Railways has a direct line and maintains a through service, without transfer, except from ferry to cars, from San Francisco to Northbrae, which is a short distance from Thousand Oaks and to which point it has published and maintains and charges a one-way fare of 10 cents and an individual monthly commutation fare of \$3.00. The service on this line to Northbrae was inaugurated on November 15, 1911, and its fares then established. The Southern Pacific Company's service to Northbrae via Berryman was inaugurated on January 10, 1912, or practically two months subsequent to the beginning of the San Francisco-Oakland Terminal Railways' service into that point, and the defendant contends that in the nature of things, it could not, if it expected to secure traffic, charge a greater fare than the line already operating into Northbrae was charg-

ing. that is, 10 cents for the one-way fare and \$3.00 for the individual monthly commutation fare between San Francisco and Northbrae, and further that the competition of the San Francisco-Oakland Terminal Railways did not stop at Northbrae, where the line stopped, but was reflected to Thousand Oaks, a point .8 of a mile further distant from San Francisco, and for that reason the same fares were established thereto by said defendant. The complainants argue that if this is correct then the competition of the San Francisco-Oakland Terminal Railways at Melrose should be reflected to a point the same distance beyond Melrose as Thousand Oaks is beyond Northbrae.

However, the service of the San Francisco-Oakland Terminal Railways to Northbrae is direct from the pier, without change, while that line's service to Melrose involves a transfer from its Broadway trains at Union Street and may be said to be a circuitous route and not to any appreciable degree affording the same class of service as the Northbrae line and competing with the defendant for San Francisco traffic. The service of the two lines between San Francisco and Northbrae may be said to be about the same or equal, but this is not true as to the service of the two lines between San Francisco and Melrose and it may be that the defendant would be fully within its authority in making this distinction between the service of the San Francisco-Oakland Terminal Railways to Northbrae and Melrose, and the reflected effect of these distinctive services to points beyond, in adjusting its fares thereto, but in view of the final conclusions in this matter it is not here necessary to determine this point.

It appears that the franchise of the predecessor of the San Francisco-Oakland Terminal Railways to construct and operate its line to the stations of Northbrae and Albany was approved by the board of trustees and became Ordinance No. 543A of the town of Berkeley on November 17, 1908. The franchise of the Southern Pacific Company to construct and operate its so-called Ninth street line and California street line and a line on Marin avenue, was approved by the board of trustees and became Ordinance No. 550A of the town of Berkeley on December 11, 1908. The franchise of the Southern Pacific Company to construct and operate a line "commencing at a point on the western boundary line of the city of Berkeley, in Block 5, as said block is delineated and so designated upon a certain map entitled 'Northbrae, Berkeley, California,' * * * said point being 50 feet, more or less, southerly from the southerly line of Solano avenue, running thence northeasterly with curve to the right and crossing private property into Solano avenue at or near its intersection with Fresno avenue, running thence easterly along and upon Solano avenue to its intersection with the easterly line of the Alameda," was approved by the city council and became Ordinance No. 58, N. S., of the city of Berkeley

on March 29, 1910, to become effective thirty days thereafter. Both of these franchises were granted to the Southern Pacific Company on the condition that it maintain over the railroad authorized thereby, a one-way fare of 10 cents and an individual monthly commutation fare of \$3.00 between the city of Berkeley and the city and county of San Francisco. The franchise of the predecessor of the San Francisco-Oakland Terminal Railways contained no provision regarding the rates of fare to be charged between San Francisco and the city of Berkeley, and that line did not begin operating into Northbrae until November 15, 1911, or over a year subsequent to the date on which the latter franchise was granted to the Southern Pacific Company.

It appears conclusive, therefore, that the Southern Pacific Company voluntarily agreed to establish the one-way fare of 10 cents and the individual monthly commutation fare of \$3.00 between San Francisco and Thousand Oaks and not because it was compelled to do so by the competition of the predecessor of the San Francisco-Oakland Terminal Railways. Presumably, therefore, the carrier considered the fare reasonable and just for the service, and, in the absence of an conclusive evidence to the contrary, they must be so considered yet. What reasons are there, then, for not establishing the same fares to points on the Melrose line equidistant from San Francisco? The conditions of operation are not materially different from those on the Shattuck avenue line, the service is about the same on one line as on the other, and the volume of the traffic on the Melrose line, as a whole, if no greater, is not less than that on the Shattuck avenue line and certainly considerably greater than that on the California street or Ninth street lines.

In view of all of these facts it appears indisputable that the defendant in agreeing to establish and in establishing a one-way fare of 10 cents and a monthly commutation fare of \$3.00 between San Francisco and Thousand Oaks, and similar points, and refusing to establish the same fares to equidistant points on the Melrose line has unduly discriminated against such points beyond Melrose, and in so far as the fares between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue exceed the fares for a similar service between San Francisco and Thousand Oaks via Northbrae, a distance of 11.9 miles, that such fares are unjust and unreasonable.

I believe it would lead to endless contention and confusion if the defendant were to charge any greater fare between San Francisco and Thousand Oaks than between San Francisco and Northbrae or Albany, owing to the physical characteristics of the defendant's line serving the north end of Alameda County, which the diagram attached discloses. The line of the defendant, it will be seen, serving this section, forms a loop with Albany and Northbrae as extreme and opposite

points between which is located Thousand Oaks, the point of intersection of the California street line. Trains are operated around the Thousand Oaks-Albany loop in alternate directions and a person, under the present operating conditions, could travel to Albany through Thousand Oaks, and, as a consequence, if the fares were greater to Thousand Oaks than to Albany, by purchasing tickets to Albany and leaving the California street train at Thousand Oaks could defeat the tariff. Likewise, the Shattuck avenue trains of the defendant might, for convenience or other causes, operate through Northbrae and Thousand Oaks to Albany and if the fares were greater to Thousand Oaks than to Albany, persons, by purchasing tickets to Albany and leaving the Shattuck avenue trains at Thousand Oaks, could otherwise defeat the tariff.

The manner in which the one-way fares between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue are collected is open to much just criticism and seems to be the source of much annoyance and confusion to passengers traveling to and from those points. There is no system of checking passengers on these suburban trains which will indicate the point at which a passenger boards the train and it is therefore necessary for conductors to inquire of passengers going to points beyond Melrose, in case they do not have tickets thereto, whether they are traveling from San Francisco or Oakland and if the passenger admits traveling from San Francisco or Oakland Pier, an additional fare of 5 cents is collected. If the passenger states that he boarded the train in Oakland at any station other than Oakland Pier, no additional fare is collected as a fare of 5 cents applies from any station in Oakland, except Oakland Pier, to Fremont Way, Fairfax Avenue and Seminary Avenue, and is collected immediately passenger boards train. An instance of the injustice this method works is illustrated by the testimony of a witness for the complainant in this proceeding, which follows:

"MR. FREEMAN. Did you go to the ferry ticket office * * * trying to buy a ticket to Seminary Avenue, yesterday?

MR. WOOD. Yes, sir.

MR. FREEMAN. Please relate what took place.

MR. WOOD. I laid down 15 cents and said I wanted a ticket to Seminary Avenue, and the agent shoved it back, shoved a nickel back and said, 'We haven't any; you will have to pay that 5 cents on the train.' I got on the boat and got on the train and went out to Seminary Avenue and nobody came around to collect the extra nickel, but they did to a party ahead of me, but didn't ask me, so I rode for 10 cents, but the party ahead paid 15 cents."

It is apparent that if passengers traveling from San Francisco and Oakland Pier to points beyond Melrose secured tickets at San Francisco or Oakland Pier to other destinations beyond Melrose, as the

defendant states is possible, no such injustice or discrimination could happen, but the defendant should supply means for securing to the public equal and just treatment, and the law enjoins this duty, and to this end it should adopt a system for checking passengers boarding these suburban trains, and collecting from all its lawful tariff fares.

As this is a matter which might require some time to perfect, I am of the opinion that no order in this regard should issue at the present time, or until such a time as it appears that steps to remedy this condition will not be taken without an order.

After a full consideration of all these matters, I find the following facts:

First—That the one-way fare of 15 cents and the individual monthly commutation fare of \$3.50 maintained and charged by the defendant between San Francisco and Fremont Way and Fairfax Avenue and the one-way fare of 15 cents and the individual monthly commutation fare of \$4.50 maintained and charged by defendant between San Francisco and Seminary Avenue, are discriminatory, unjust and unreasonable.

Second—That a one-way fare of 10 cents and an individual monthly commutation fare of \$3.00 would be reasonable and just fares for the service.

I therefore recommend the following form of order:

ORDER.

East Oakland Protective League having filed with this Commission a complaint against the one-way and individual monthly commutation fares established, maintained and charged by the defendant, Southern Pacific Company, between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue, and a full investigation and hearing of the matters and things involved having been had, and the Commission being fully apprised in the premises,

It is hereby ordered that a one-way fare of ten cents and an individual monthly commutation fare of three (\$3.00) dollars be and they are hereby established as just and reasonable fares to be charged by the Southern Pacific Company between San Francisco and Fremont Way, Fairfax Avenue and Seminary Avenue; and

It is further ordered that the Southern Pacific Company shall publish and file, in accordance with the rules of this Commission, within twenty (20) days from the service of this order, tariffs setting out the fares herein established as just and reasonable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of October, 1913.

DECISION No. 1046.

IN THE MATTER OF THE APPLICATION OF CLEAR LAKE RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF FIVE HUNDRED THOUSAND DOLLARS AND CAPITAL STOCK OF THE PAR VALUE OF TWO HUNDRED THOUSAND DOLLARS.

Application No. 651.

Decided October 29, 1913.

Held. Applicant authorized to issue 2,617 shares of capital stock of the par value of \$100.00 per share and bonds of the face value of \$500,000.00; stock to be sold at par and bonds at not less than 80, proceeds to be used in the construction of a line of railroad from Hopland, Mendocino County to Lakeport, Lake County.

Herbert V. Keeling, for Applicant.

H. B. Churchill, for certain stockholders.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application on the part of the Clear Lake Railroad Company for authority to issue bonds to the face value of \$500,000.00 and capital stock of the par value of \$200,000.00, or so much thereof as may be necessary, for the purpose of constructing a standard gauge railroad from a junction with the line of the Northwestern Pacific Railroad Company at Hopland, in Mendocino County, to Lakeport in Lake County. The hearing on this application was held at Lakeport on October 10, 1913.

Applicant is a California corporation, and was incorporated on May 18, 1911. Applicant's purpose, as expressed in its articles of incorporation, is to construct a line of railway from Hopland to Lakeport, together with branch lines from Lakeport to Kelseyville and from Lakeport to Upper Lake, all in Lake County, and also to construct the necessary telephone and telegraph lines in connection with the railroad. The capital stock of the corporation is to be \$500,000.00, divided into 5,000 shares, of the par value of \$100.00 each. The articles show that at the time of incorporation, capital stock to the extent of \$70,000.00, par value, had been subscribed by some 196 persons, whose names appear in the articles.

After a number of preliminary surveys, applicant has adopted a route for its proposed line of railway, in effect, as follows:

Beginning at the station of Hopland on the line of the Northwestern Pacific Railroad Company; thence easterly across Russian River, just below its confluence with Dooley Creek; thence up Dooley Creek and through Sanel Valley; thence, crossing a dividing range of hills lying between Sanel Valley and McDowell Valley to a low pass near the stock farm of Colonel Dan Burns; thence easterly and crossing McDowell Valley to the foot of the main range, passing south of and near to McDowell Springs; thence ascending the mountain with a continuous maximum grade of 4 per cent for a distance of 6 miles to the grade summit; thence through a 1,300-foot tunnel to the east side of the range; thence down the right bank of Highland Springs Creek to the bed of the stream, recrossing the same; thence along much the same route as the Pieta toll road for a distance of some 2 miles, to Highland Springs; thence northerly through the western portion of Big Valley, skirting the low foothills, to Lakeport. The total distance from Hopland to Lakeport is $23\frac{1}{2}$ miles. The line shows an unbroken 4 per cent grade for about 6 miles going east and for practically 3 miles going west. The route shows a maximum curvature of 24 per cent. It is proposed to operate the line by steam and to run two mixed trains per day, with such variations as may be necessary by reason of heavier traffic during certain seasons.

The railroad which it is now proposed to build represents the most recent attempt to construct a railroad into Lake County. For between thirty and thirty-five years, different railroads have been planned to enter this county. Some have been projected from the south and some from the west and there is some evidence of a survey from the east, up Cache Creek. One of these proposed lines, known as the Highland Pacific line, was projected from Santa Rosa to Lakeport at an estimated cost of some \$2,775,000.00, for an electrically operated railroad over a distance of some 70 miles, with a 4,000-foot tunnel. Many years ago what is known as the McNulty-Pettibone Syndicate did some actual construction work on a route which was intended to run from Napa County through the Napa Valley, entering Lake County in the vicinity of Middletown. Later, W. B. King projected a railroad from Napa County over practically the same route. Thereafter, just prior to 1906, what is known as the Cloverdale and Lakeport Electric Road was projected from Cloverdale to Lakeport. What is known as the Hotaling Railroad was to be constructed from Napa into Lake County over what is known as the Butts Canyon route, but the evidence at the hearing showed that this proposition was supposed to cost several million dollars. At another time subscriptions amounting to \$150,000.00 were taken for a bond issue to build a railroad from Pieta, 6 miles below Hopland, into

Lake County. This railroad was to be known as the Clear Lake and Northern. At another time it was contemplated to build a narrow gauge railroad into Lake County from Ukiah, north of Hopland. A survey has also been made up Putah Creek from Napa County, and another accredited to the Santa Fe, over the Blue Lakes Pass from the northwest, through Willits and Potter Valley. The history of Lake County largely centers around these various projects to construct railroads into the county. Up to the present time, however, not a single foot of rail has been actually laid in the county. After the disappointments and experiences of the past, the citizens of Lake County now desire to build a railroad over the shortest line of all, to a direct connection between Lakeport and the Northwestern Pacific Railroad Company, at the latter's station in Hopland.

The testimony at the hearing showed that of the authorized capital stock, 854 shares, having a par value of \$85,400.00, have been issued. All the stock heretofore issued has been sold at par. The financial statement attached to the application shows that from the sale of its stock applicant has realized \$72,372.50 in cash and a note for \$500.00, secured by mortgage. Certain stock was issued prior to March 23, 1912, without having been fully paid for, but applicant is taking steps to collect the unpaid balances. Applicant has also received \$3,525.00 as partial payment on subscriptions for 58 shares of capital stock, which shares have not as yet been issued.

On November 25, 1911, applicant authorized the issuance of 800 bonds in the aggregate sum of \$400,000.00, bearing interest at the rate of 5 per cent per annum. None of these bonds have ever been issued. The bonds which applicant now desires to issue will bear interest at the rate of 6 per cent per annum.

Applicant has outstanding four promissory notes in the sum of \$1,000.00 each, payable to H. V. Keeling, dated December 4, 1912, due one day after date and bearing interest at the rate of 8 per cent per annum. The proceeds of these notes were used for proper capital expenditures.

The following statement, appearing on pages 20 and 21 of the application, is a complete statement as of August 23, 1913, of all receipts and disbursements of applicant since its incorporation:

| RECEIPTS. | |
|--|-------------|
| From sales of capital stock, cash..... | \$72,372 50 |
| From sale of capital stock, identified by note and mortgage from subscriber to the company..... | 500 00 |
| Subscriptions for 58 shares of capital stock (stock not issued) | 3,525 00 |
| Loans payable, amount received on corporation promissory notes | 4,000 00 |
| Total receipts | \$80,397 50 |

DISBURSEMENTS.

Construction accounts, I. C. C. classification :

| | |
|---|-------------|
| Account No. 2, right of way and station grounds..... | \$4,820 47 |
| Account No. 4, grading | 51,657 09 |
| Account No. 5, tunnels | 903 27 |
| Account No. 6, bridges, trestles and culverts..... | 2,605 27 |
| Account No. 7, ties | 28 83 |
| Account No. 14, fencing right of way | 484 06 |
| <hr/> | |
| Total, 2 to 36, inclusive..... | \$60,498 99 |
| Account No. 1, engineering..... | 15,113 34 |
| <hr/> | |
| Total, 1 to 42, inclusive | \$76,612 33 |
| Account No. 43, law expenses..... | 939 25 |
| Account No. 44, stationery and printing | 270 78 |
| Account No. 46, taxes | 268 75 |
| Account No. 47, interest and commission | 668 00 |
| Account No. 48, other expenditures | 2,263 88 |
| <hr/> | |
| Total, 1 to 48, inclusive | \$80,022 99 |
| Notes receivable | 500 00 |
| <hr/> | |
| Total | \$80,522 99 |
| Cash on hand in the banks June 30, 1913..... | 347 54 |
| <hr/> | |
| Total | \$80,870 53 |
| Vouchers and checks issued and unpaid at the close of accounts for the month of June, 1913 | 473 03 |
| <hr/> | |
| Grand total | \$80,397 50 |

The disbursements have been classified in accordance with the Interstate Commerce Commission's classification of railroad construction accounts.

As indicated by the statement of disbursements hereinbefore set out, the sum of \$80,870.53 has actually been spent by applicant on its proposed line of railway. Applicant's engineer has made some six or seven surveys between May, 1911, and November or December, 1912, for the purpose of securing the most available route between Hopland and Lakeport. Between six and seven miles from Hopland easterly—with the exception of two small gaps—have been graded. The necessary culverts have been installed throughout this distance and a considerable amount of timber and piling has been secured from local sources, for the construction of the proposed tunnel and certain trestles and bridges.

One hundred and twenty-six and thirty-one hundredths acres of right of way have been donated. The testimony shows that this land has an approximate value of \$6,943.80. Twenty-two and four tenths acres have been purchased at a cost, including attorney's fees and recordation, of \$4,820.47. One hundred and nineteen and twenty-eight hundredths acres consist of government land which have been

covered by approved filing maps. The company still has to acquire some 30.3 acres, estimated to have a value of between \$1,900.00 and \$2,000.00. After the hearing, applicant secured an agreement to donate a right of way through what is known as the Platt property, which property is located in the town of Lakeport and is not included in the foregoing estimate. The right of way through this property is to contain some 2.7 acres and is valued at some \$5,400.00. It accordingly appears that applicant has acquired nearly all the right of way which it will need and that the expense to acquire the additional necessary right of way will be comparatively slight.

The other property which has been acquired and which has not been specifically referred to will be found in the statement of disbursements hereinbefore set forth.

Applicant's engineer presented an estimate of the amount of money necessary to construct the railroad, including that already spent, which estimate, as corrected, is the sum of \$540,476.52. To this sum should be added \$39,600.00 for equipment, making a total estimate on the part of applicant's engineer of \$580,076.52. The engineer's cost summary, exclusive of equipment, is as follows:

| | |
|---|--------------|
| (1) Right of way including legal expenses and commissions..... | \$6,800 00 |
| (3) Grading, including clearing right of way and building wagon roads | 239,858 52 |
| (4) Tunnels | 74,253 00 |
| (5) Steel bridges and trusses | 23,040 00 |
| (6) Pile and frame trestles | 18,400 00 |
| (7) Culverts | 5,380 35 |
| (8) Ties, 63,360 at \$40, Hopland (local timber)..... | 25,344 00 |
| (9) Steel rail, 65-pound relay, 2,488 tons, at \$35.00, Hopland..... | 85,680 00 |
| Two short sidings, 50-pound relay, including frogs and switches | 800 00 |
| Two wyies, 50-pound relay, including frogs and switches... | 1,000 00 |
| (11) Track fastenings, bolts, spikes, etc. | 12,480 00 |
| (13) Track laying and surfacing at \$400.00 per mile..... | 9,600 00 |
| (14) Roadway tools | 600 00 |
| (15) Fencing right of way..... | 4,219 37 |
| (16) Crossings and signs | 806 00 |
| (19) Telephone line | 3,300 00 |
| (20) Station buildings (one only) | 3,500 00 |
| (21) Platforms | 400 00 |
| (23) Shopbuilding and engine house (corrugated iron)..... | 4,500 00 |
| (26) Shop machinery and tools | 1,000 00 |
| (27) Water station (one only, gravity supply)..... | 1,000 00 |
| (28) Fuel tank | 1,250 00 |
| (37) Engineering and superintendence | 20,000 00 |
| (50) Law expenses | 2,000 00 |
| (51) Stationery and printing | 400 00 |
| (52) Insurance (all liability insurance included above)..... | 500 00 |
| (53) Taxes | 600 00 |
| Error in estimate | 6,234 72 |
| | <hr/> |
| | \$540,476 52 |

Applicant's engineer was carefully examined with reference to his estimate. This Commission's chief engineer has reached the conclusion that the estimate is too low with respect to certain items. The chief engineer has made the following increases in the estimate as presented by applicant: Grading, from \$239,858.52 to \$274,438.84; tunnels, from \$74,253.00 to \$97,500.00; bridges, trestles and culverts, from \$41,440.00 to \$43,636.35; track laying and surfacing (unballasted), from \$9,600.00 to \$19,200.00; engineering and superintendence, from \$20,000.00 to \$29,022.73.

The chief engineer also added an item of 10 per cent for contingencies, for which the applicant's engineer had made no allowance. It appears also that no allowance has been made for ballasting. The applicant's engineer testified that, in his opinion, it would cost about \$2,000.00 per mile to ballast the line. This Commission's engineer allowed \$1,000.00 as being a very low estimate. The net result of these changes is an estimate on the part of this Commission's engineer amounting to \$678,502.75, to which should be added \$39,600.00 for equipment and a minimum of \$24,000.00 for ballasting, making a total of \$742,102.75.

While it may be that applicant will be able to save on certain items of construction, I shall assume that it will cost the amount of this Commission's chief engineer's estimate to complete and equip the road. I think it far better to go on that assumption than to find out later that the amount of money which applicant contemplated raising is too little to complete the project.

As hereinbefore stated, the western terminus of applicant's proposed line of railroad is to be the station of Hopland, on the line of the Northwestern Pacific Railroad Company. This company has offered to supply all of the rails and fittings needed by applicant and to take bonds in payment therefor. It has also offered to enter into traffic arrangements with applicant. The Northwestern Pacific will give to applicant the necessary use of its station facilities at Hopland without any charge for rental, as long as this can be done without inconvenience to the Northwestern Pacific's own business. If it becomes necessary to enlarge the premises, the applicant is to bear a proportional share of the expense.

Lake County is located a distance of some 150 miles northeast of San Francisco Bay. The major portion of the county is almost entirely surrounded by mountains. In the plateau enclosed by these mountains lies Clear Lake, a body of fresh water some 25 miles in length and from 2 to 9 miles wide. A large number of mineral springs, both

I shall now consider the possible revenues and operating expenses in connection with the proposed line of railway, and shall then address myself to the question of financing the same.

Referring first to passenger revenue, it appears that at present, people desiring to enter Lake County do so by automobiles, auto-stages or teams. From Pieta the round trip by auto-stage is \$6.50, and from Calistoga to Adams Springs, the rate is \$8.00 for the round trip. Applicant estimates that in 1911, 23,141 persons came to Lakeport, Upper Lake, Kelseyville and Lower Lake by stage or auto-stage. These figures do not include any persons going to Bartlett Springs, east of Clear Lake. The testimony shows that in 1913, some 2,500 persons traveled to and from Bartlett Springs by stage line and that during the months of June, July and August, 1913, some 3,170 guests by stage arrived at Adams Springs. In addition to these two resorts there are quite a number of others in the county. The managers, both of Bartlett Springs and Adams Springs, the one lying to the east of Clear Lake and the other in the southern portion of the county, testified that if the proposed line of railway were built, practically all of the passengers who now come into their resorts by stage or auto-stage would come in by railroad, and that, in their opinion, the number of passengers would increase very largely. The evidence seems to show that practically all persons who now come into any portion of Lake County by stage or auto-stage, would use the railroad, and that the number of persons coming into the county to visit the springs alone would be very largely increased.

All freight at present must be hauled in and out of the county by means of teams and auto-trucks. Auto-trucks have not proved much of a success because of the heavy grades and poor condition of the roads. It costs all the way from \$5.00 to \$8.00 per ton to haul out the fruit and other traffic, and a like amount to bring in such freight as comes into the county. The chief products of the county are pears, grapes, prunes, grain, alfalfa, hay, cattle, hogs, turkeys, canned string

beans and hops. The incoming freight consists of merchandise, building material, machinery and articles of general consumption. The transportation of freight in and out of the county is slow, expensive and extremely unsatisfactory. Thus, traffic which moves to and from Bartlett Springs is hauled by freight teams from and to Williams, in Colusa County, a distance of some 44 miles. It takes 12 or 14 mule teams six days for the round trip. Freight to and from Adams Springs moves via Calistoga, a distance of 29.3 miles, over three mountains, by teams, at the rate of \$8.00 to \$10.00 per ton. Freight to and from Lakeport, Kelseyville, Upper Lake and Lower Lake moves largely over the Hopland, Ukiah and Pieta toll roads, and is hauled out by teams at from \$5.00 to \$8.00 per ton. The time consumed by the trip, as well as the rough journeys, makes it impossible for Lake County at present to produce small fruit, vegetables and other perishable produce for the market. Intensive farming is made impossible. During the height of the fruit season, when it is desired to ship out the fruit, it is often impossible to secure enough teams. Prompt deliveries can not be made. A large amount of fruit is left to rot on the ground or is fed to hogs. The testimony shows that the greater portion of the freight which moves in and out of Lake County would move over the proposed railroad if constructed.

At the hearing, applicant presented a statement prepared in 1910, and collated from cards which were signed by all the individual shippers of Lakeport, Upper Lake, Kelseyville and Lower Lake and vicinity, purporting to show the tonnage of freight shipped or received by each of the signers in the preceding year. The total tonnage so shown amounted to 42,374 tons. I tried at the hearing to check up this total, but was unable to do so. The above estimate was prepared under the direction of Mr. W. A. Cattell, consulting engineer, who was working on one of the propositions to build a railroad into Lake County. The testimony shows that freight moving in and out of the county and thence by railroad, moves partly through Ukiah, Hopland and Pieta, on the line of the Northwestern Pacific Railroad Company, partly via Calistoga, on the lines of the Southern Pacific Company and the San Francisco, Napa and Calistoga Railway Company and partly via Williams, on the line of the Southern Pacific Company. Subsequent to the hearing, I secured statements from the Northwestern Pacific and the Southern Pacific Company, showing the amount of freight moving through Ukiah, Hopland and Pieta on the one hand and Calistoga on the other, together with an estimate of the percentage of this freight attributable to Lake County. The statement filed by the Northwestern Pacific Railroad Company shows that for the fiscal

year ending June 30, 1913, the following total amounts of freight were forwarded, and received through Pieta, Hopland and Ukiah:

| FORWARDED. | |
|-------------------|-------------|
| Pieta ----- | 46 tons |
| Hopland ----- | 6,600 tons |
| Ukiah ----- | 8,462 tons |
| | <hr/> |
| | 15,108 tons |
| RECEIVED. | |
| Pieta ----- | 84 tons |
| Hopland ----- | 7,057 tons |
| Ukiah ----- | 15,593 tons |
| | <hr/> |
| | 22,734 tons |
| | <hr/> |
| Grand total ----- | 37,842 tons |

Of this total tonnage, the Northwestern Pacific estimates that of the forwarded tonnage, 2,984 tons is attributable to Lake County and of the received tonnage, 3,172 tons, making a total of 6,156 tons for Lake County.

Referring to the Lake County shipments moving in and out of Calistoga over the line of the Southern Pacific Company, this Commission is in receipt of a statement prepared by the Southern Pacific Company, stating that for the year ending May, 1912, the tonnage handled through Calistoga was as follows:

| | | |
|-----------------|-----------------------|-----------------------------|
| Received ----- | Carload 2,273 tons | Less carload. 2,000 tons |
| Forwarded ----- | 4,685 tons | 687 tons |
| | <hr/> | <hr/> |
| Total ----- | 6,958 tons | 3,296 tons |

The statement prepared by the Southern Pacific Company adds that of the above tonnage about 1,700 tons less carload freight inbound and about 35 tons outbound is Lake County freight, and that 5 per cent of the carload business or about 115 tons per year would cover the inbound carload business, and that practically none of the outbound carload tonnage originates in Lake County.

Reference has already been made to the fact that some 3,300 tons move through Williams from and to Bartlett Springs. No estimate has been received as to the amount moving via Calistoga over the line of the San Francisco, Napa and Calistoga Railway.

In addition to the freight which appears in the records of these various railroads, a considerable amount of freight moves out of Lake County for local consumption in Ukiah, Hopland, Cloverdale and other points. For instance, a considerable amount of hay moves to Ukiah for consumption there. Hogs and cattle, and even turkeys, are driven out of Lake County, and a portion thereof do not appear in the railroad records to which we have referred. Again, a considerable tonnage of grapes is hauled to Ukiah for use in the winery at that point.

The testimony shows that a considerable acreage of land is being planted to trees, which are not as yet in bearing, and that if the railroad were constructed, the production of fruit in the county would largely increase. To illustrate the possibilities of increased production, I will refer to the Lake County Canning Company, which grows and cans string beans at Upper Lake. During the present season, the company had 90 acres under cultivation and shipped 19,000 cases of canned beans, representing a weight of somewhat less than 400 tons. Within the next year or two, the company will have 250 acres under cultivation. The company was unable to secure enough teams last year to haul out its freight, and tried motor trucks, but this experiment was not successful, for the reason that some 8 tires were lost during seven weeks, representing a cost of \$800. Reference might be made to other industries, and particularly to the increased acreage now being planted to fruit, and which would be planted if the railroad were constructed, but I think the foregoing statement will show in a general way the possibilities of present and probable future freight moving in and out of the county.

I can not undertake to make an estimate of the revenue which would be secured from either passenger or freight traffic if the railroad were constructed, but it is evident that there is considerable traffic at present and that there will be considerably more traffic if the applicant should be successful in its enterprise. It will probably be necessary for applicant to charge relatively high rates at first for both passengers and freight, so as to meet its operating expenses and interest on such securities as it may issue, as well as sinking fund to retire the bonds and the percentage for depreciation.

No estimate of operating expenses was presented by applicant. The records of the Interstate Commerce Commission show that the average ratio of operating expenses and taxes to gross revenue is 70.8 per cent. The percentage on applicant's line of railroad will probably be somewhat higher because of the 4 per cent maximum grade and the maximum curvature of 24 degrees. The relatively high operating expenses which will result from these conditions suggests the advisability of giving serious consideration to the question whether it would not be more advisable to operate the line by electricity. The Commission endeavored at the hearing to ascertain the possibilities of such operation, but it appears that while electric energy may be secured at Hopland, and possibly elsewhere, applicant has not given thorough consideration to this method of operation. I suggest to the directors of the company that before making their final plans as to construction and operation, they secure such information as may be available on this question.

The Commission has done its best to ascertain such facts as may be relevant on the question whether or not applicant's proposed line of

railway, if constructed, will be able to earn operating expenses and interest on the securities, as well as to lay aside a fund for depreciation and for retiring the securities. On the one hand are the failures of the past, the relatively small present population and the relatively high operating expenses due to the grades and curves. On the other hand, consideration must be given to the large amount of present freight and passenger traffic and to the certainty of a large increase therein if this railroad is constructed. It is the policy of this Commission to encourage in so far as possible the development of this State by public utility enterprises. This is particularly true where no utility of a like character at present serves the field, and where the utility has no elements of a promotion scheme, but is an earnest and bona fide effort of the citizens of the community to develop their portion of the State, and thereby to increase the wealth and prosperity of the entire State. The present enterprise is of this character. Under the circumstances, this Commission will resolve every reasonable doubt in favor of the enterprise, and see to it that reasonable conditions are prescribed in the order, so as to safeguard the enterprise in so far as possible.

Applicant now asks authority to issue bonds of the face value of \$500,000.00 and its stock of the par value of \$200,000.00. The bonds are to be in the denomination of \$500.00 each and to bear interest at the rate of 6 per cent per annum. They are to run for a period of twenty-five years and are to be secured by deed of trust, a form whereof is attached to the application and marked Exhibit "C." The bonds are to provide that no recourse shall be had against the stockholders and directors for the payment of the principal or the interest thereon.

It is proposed to issue the stock at par and the bonds at not less than 80 per cent of their face value. No definite plan for the disposition of the stock and bonds has as yet been adopted by applicant's directors. An offer to dispose of the bonds, with the stock bonus, on certain designated terms and another offer to build the railroad, on the condition, among others, that the contractors would take in part payment bonds of the face value of \$50,000.00 were read at the hearing, but it is not necessary to pass on either of these offers.

The Northwestern Pacific Railroad Company has offered to furnish to applicants suitable rails and fittings at the same price that it would charge for the same rail to itself and to take payment therefor in bonds at the same figure at which they are disposed of to other parties. It is evident that something in excess of \$100,000.00 face value, of bonds will be necessary for this purpose. Applicant's directors are confident that they will be able to raise additional money by stock subscriptions among property owners in Lake County, particularly if the money is not to be paid in until the enterprise is completed or if it is to be paid in promptly but placed in escrow, or if some similar

arrangement is made so as to guarantee the success of the enterprise as a condition precedent to the use of the money so derived. Judging from the great interest taken in this matter in Lake County and the apparent tendency on the part of all of its inhabitants to work together to secure the consummation of this project, I am of the opinion that a large amount of the additional sum necessary to be secured can be raised from Lake County property owners.

As hereinbefore stated, the Commission's engineering department estimates that with the addition of \$24,000.00 for ballast, it will cost \$742,102.76 to build and equip this road. Of this amount, including the proceeds from the notes amounting to \$4,000.00, \$80,397.50 has already been spent, leaving a balance of \$661,705.30 which must be secured from the sale of stock and bonds. Applicant has asked authority to issue bonds of the face value of \$500,000.00. This Commission can not on this project authorize bonds in any larger amount. If these bonds sell at 80 per cent of their face value, \$400,000.00 will be derived from this source. This would leave a balance of some \$261,705.30 to be secured from the sale of stock at par.

In order to give security to the bonds, it is necessary that the stock be subscribed for and secured before the bonds issue. Applicant's directors will be expected to present to the Commission a plan for accomplishing this end.

The remaining serious question arises from the possibility of applicant's inability to be able to earn both operating expenses and interest on the bonds. If bonds of the face value of \$500,000.00 are issued, this will mean an annual outlay for interest amounting to \$30,000.00. This matter was gone into at the hearing, and I suggested the possibility of either securing from the purchasers of the bonds a waiver of the interest during say the first five years or a guarantee from responsible parties satisfactory to the Commission that such interest as was not waived would be paid. The order will contain a condition to this effect. If the proper amount of stock is subscribed and such guarantee is secured, the sale of the bonds should be made easier. A considerable portion of these bonds ought to be taken by local people, who should pay par for them. If this is done, a considerably smaller amount of stock need be subscribed for. The Commission's order will not at this time prescribe all the details in connection with the financing of the railroad, but the directors will be expected to present to the Commission within a reasonable time a plan under which they believe that they can avail themselves of the Commission's authorization.

I find that the moneys to be procured from the sale of the stock and bonds herein authorized are not properly chargeable to operating expenses or to income, and recommend that the application be granted

subject to the conditions prescribed in the order. In doing so, I desire to express my admiration for the pluck and perseverance of the people of Lake County and to express the earnest hope that the present enterprise may be successful. It must be understood, however, that this Commission can not be expected to stand sponsor for the success of the enterprise. The matter rests with the people of Lake County.

I recommend the following form of order:

ORDER.

Clear Lake Railroad Company having applied to the Railroad Commission of the State of California for an order authorizing the issue by said company of two thousand (2,000) shares of its capital stock of the par value of one hundred (\$100) dollars each, making a total of two hundred thousand (\$200,000) dollars, and first mortgage gold bonds of the face value of five hundred thousand (\$500,000) dollars, to bear interest at the rate of six (6%) per cent per annum and to be secured by trust deed or mortgage upon all the property of the company and to execute said trust deed or mortgage, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the proceeds of said stock and bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

Clear Lake Railroad Company is hereby authorized to issue two thousand six hundred and seventeen (2,617) shares of its capital stock, having a par value of one hundred (\$100) dollars each, and five hundred thousand (\$500,000) dollars, face value, of bonds to bear interest at the rate of six (6%) per cent per annum, and to be secured by deed of trust or mortgage upon all the property of the company, upon the following conditions and not otherwise, to wit:

1. Clear Lake Railroad Company shall sell its said capital stock so as to net said company not less than the par value thereof.

2. Clear Lake Railroad Company shall sell said bonds so as to net said company not less than eighty (80%) per cent of the face value thereof, together with accrued interest.

3. Clear Lake Railroad Company shall use the proceeds of said stock and bonds only for the purpose of constructing its proposed line of railroad between Hopland and Lakeport for the items which appear in the cost summary prepared by applicant's engineer, and appearing in the opinion in this proceeding as modified by the estimate of the Railroad Commission's chief engineer, also referred to in the opinion.

4. Before any of said stock or bonds are issued, Clear Lake Railroad Company shall present to the Railroad Commission for its approval a plan by which all or the major portion of such capital stock as it

may be necessary to issue shall be paid for or subscribed, and secured prior to the issue of the bonds hereby authorized, and also a plan by which the interest on the bonds hereby authorized may be waived or guaranteed for a period of five (5) years in case and to the extent that applicant's line of railroad may be unable to earn both operating expenses and interest on the outstanding bonds, if there be such inability.

5. Before Clear Lake Railroad Company may issue any of the bonds hereby authorized, it shall present to the Railroad Commission and secure its approval of a trust deed or mortgage of its property to secure said bonds.

After Clear Lake Railroad Company shall have presented to the Commission a satisfactory plan for complying with the conditions hereinbefore specified the Commission will issue its supplemental order specifying the necessary conditions and containing the usual provisions with reference to accounting, time limit for issue of stock and bonds and payment of fee on bonds.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of October, 1913.

DECISION No. 1047.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY
WATER COMPANY FOR AUTHORIZATION TO ISSUE A
PROMISSORY NOTE AND TO PLEDGE BONDS TO SECURE
THE SAME.

Application No. 801.

Decided October 29, 1913.

Held, Applicant authorized to execute its promissory note in the amount of \$300,000.00 and to issue and pledge bonds of the face value of \$400,000.00 as security therefor; proceeds of said note to be used (1) in partial payment of certain mortgages, (2) for construction work on Calaveras dam.

A. C. Green, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Spring Valley Water Company for an order authorizing the issue of a promissory note in the principal sum of

\$300,000.00, with interest at the rate of 6 per cent per annum, and authorizing the issue and pledge as collateral security for the payment of said note, \$400,000.00 face value of applicant's 4 per cent general mortgage gold bonds.

Applicant is a water company furnishing water to the inhabitants of the city of San Francisco and adjacent communities. The condition of its capitalization is as follows:

| | |
|--------------------------------------|-----------------|
| Capital stock, all common: | |
| Authorized ----- | \$28,000,000 00 |
| Issued ----- | 28,000,000 00 |
| Bonds: | |
| Authorized ----- | \$28,000,000 00 |
| Issued ----- | 17,859,000 00 |
| Pledged as collateral security ----- | 845,000 00 |
| Other indebtedness ----- | 1,223,396 25 |
| Mortgage indebtedness ----- | 398,396 25 |

From the proceeds of the note herein asked to be authorized, applicant proposes to use \$185,500.00 to pay off mortgage obligations on lands heretofore purchased by applicant for reservoir and watershed purposes, and the balance of the proceeds of such note issue are to be applied on the expenditures made and to be made on the Calaveras dam now under construction.

Without fixing definitely the value of the property owned by applicant, it is apparent that there is a sufficient security for the issuance of the note herein asked to be authorized. Furthermore, it appears that applicant is earning approximately three times the amount of its interest charges.

The promissory note is to be made payable in not more than ninety days and it is proposed to apply to this Commission later for a more permanent scheme of financing.

The amount of bonds asked to be authorized to be pledged as security for the payment of this promissory note is reasonable and I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Spring Valley Water Company for an order authorizing the issue of a promissory note in the principal sum of \$300,000.00, with interest at the rate of 6 per cent per annum and for an order authorizing the issuance and pledge of \$400,000.00 face value of applicant's 4 per cent general mortgage gold bonds as security for the payment of said promissory note,

And a public hearing having been held thereon and it appearing to the Commission that the money to be secured by the issue of said note is necessary and reasonably required by said company for the discharge of its obligations, and the acquisition and construction of facilities, and

that the purposes for which the proceeds of the issuance of said promissory note are to be used are not, in whole or in part, reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Spring Valley Water Company of a promissory note in the principal sum of \$300,000.00, with interest thereon at the rate of 6 per cent per annum, and the issuance and pledge by said company of \$400,000.00 face value of its 4 per cent general mortgage gold bonds as security for the payment of said note. Said note and said bonds to be issued under the following conditions, and not otherwise:

1. Said promissory note shall be made payable in not more than ninety days from its date and applicant shall realize full face value for said promissory note, and shall use the proceeds derived therefrom for the following purposes:

(a) \$185,500.00 thereof shall be used to pay off and discharge obligations secured by mortgage, as follows:

Mortgage to Alameda Sugar Company, and assigned to J. L. Flood, dated April 1, 1911, and given to secure the sum of \$300,000. Said mortgage has been converted into a note secured by 94 treasury bonds of petitioner. Said note matures on the 10th day of November, 1913, and the amount now due thereon is \$75,000.

Mortgage to E. R. Lilienthal, dated May 7, 1910, and covering 617 acres at Pleasanton, Alameda County, California, given to secure the sum of \$350,000, of which the sum of \$50,000 is now due. The maturity of said obligation is December 31, 1913.

Mortgage to P. Callan, dated October 30, 1911, and covering 40.61 acres at Pleasanton, given to secure the sum of \$11,000, of which the sum of \$5,000 is now due. The date of the maturity of said obligation is the 30th day of October, 1913.

Mortgage to Elizabeth F. Roberts, dated November 6, 1911, and covering 117.533 acres at Pleasanton, given to secure the sum of \$27,300, of which \$9,100 is now due. That the date of maturity of said obligation is the 6th day of November, 1913.

Mortgage to M. P. Rose, dated November 10, 1911, covering 16.44 acres at Pleasanton, given to secure the sum of \$6,750, of which \$2,250 is now due. That the date of maturity of said obligation is the 10th day of November, 1913.

Mortgage to A. Caton, dated November 16, 1911, and covering 11 acres at Pleasanton, given to secure the sum of \$5,000, of which \$5,000 is now due. That the date of maturity of said obligation is the 16th day of November, 1913.

Mortgage to Ernest Schween Company, dated November 27, 1911, covering 390.91 acres at Pleasanton, given to secure the sum of \$141,600, of which \$35,400 is now due. That the date of maturity of said obligation is the 27th day of November, 1913.

Mortgage to Maria Wenig, dated December 15, 1911, covering 18 acres at Pleasanton, given to secure the sum of \$11,250, of which \$3,750 is now due. That the date of maturity of said obligation is the 15th day of December, 1913.

(b) \$114,500.00 thereof shall be used in payment for labor and materials on the Calaveras dam, during the months of August and September, the detail of which is as follows:

| | August | September |
|--|--------------------|--------------------|
| Engineers salaries and fees..... | \$865 00 | \$1,184 00 |
| Labor | 11,946 00 | 14,898 00 |
| Lumber | 840 00 | 1,107 00 |
| Hauling | 141 00 | 581 00 |
| Cement | | |
| Fuel oil | | 547 00 |
| Pipe | 5,500 00 | |
| Hay and barley..... | 3,633 00 | |
| Constructing men's quarters..... | | 5,777 00 |
| Pumps | | 1,500 00 |
| Materials, supplies and equipment..... | 11,884 00 | 6,287 00 |
| Totals | \$34,809 00 | \$31,881 00 |

And the remainder of said \$114,500.00 shall be applied on account of expenditures made and to be made for material and labor on said Calaveras dam during the month of October, 1913, which is estimated to total \$75,000.00.

2. The bonds herein authorized to be issued, shall be issued only for the purpose of a pledge as collateral security to secure the note herein authorized, and immediately upon the payment of the indebtedness represented by said note, said bonds shall be returned to the treasury of the applicant, thereafter to be subject to the further order of this Commission.

3. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the issuance of said promissory note hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the disposition of such promissory note, the terms and conditions of such disposition, the moneys realized therefrom and the use and application of such moneys.

4. The authority hereby given to issue the promissory note and bonds herein mentioned, shall apply only to such a note and such bonds issued by said company on or before the first day of December, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of October, 1913.

53—BD

Decisions Nos. 1048, 1049 and 1050, grade crossings; not printed. See end of volume.

DECISION No. 1051.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO
CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN
ORDER AUTHORIZING THE ISSUANCE OF BONDS OF
THE FACE VALUE OF SIX HUNDRED THIRTY-NINE
THOUSAND DOLLARS.

Application No. 590.

Decided October 29, 1913.

Fourth supplemental order authorizing applicant to issue additional bonds, covering capital expenditures made during the month of September, 1913.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is a supplemental application for authority to issue bonds of the face value of \$27,000.00.

On June 30, 1913, this Commission rendered its opinion and order in the above entitled proceeding, authorizing applicant to issue certain bonds, including bonds of the face value of \$459,000.00, on expenditures to be incurred during the year 1913, subsequent to April 30, 1913. On August 7, 1913, this Commission rendered its supplemental opinion and order authorizing the issue of \$102,000.00, face value, of said bonds on capital expenditures made during May and June, 1913. On August 22, 1913, this Commission rendered its second supplemental opinion and order, authorizing the issuance of \$33,000.00, face value, of said bonds on capital expenditures incurred during the month of July, 1913. On September 25, 1913, this Commission rendered its third supplemental opinion and order, authorizing the issuance of \$25,000.00, face value, of said bonds on capital expenditures incurred during the month of August, 1913.

The present supplemental application is filed for the purpose of securing this Commission's authorization for the issue of an additional \$27,000.00, face value, of said bonds for capital expenditures incurred during the month of September, 1913.

A summary of the estimated expenditures during the year 1913, subsequent to August 31, 1913, of the actual expenditures incurred

during September, 1913, and of the balance to be expended in 1913 is attached to the application and reads as follows:

| | Balance to be expended as of Au- gust 31, 1913 | Expenditures in September, 1913 | Balance to be expended |
|---|---|---------------------------------------|------------------------------|
| 1. Steam power plant equipment..... | \$52,661 33 | \$3,218 87 | \$49,442 46 |
| 2. Electric distribution system..... | 75,409 29 | 12,261 52 | 63,147 77 |
| 3. Gas plant, buildings and general struc- tures | 2,287 02 | 87 02 | 2,200 00 |
| 4. Gas generators | 14,505 47 | 523 86 | 13,981 61 |
| 5. Purification appliances | 12,260 00 | 1,653 06 | 10,606 94 |
| 6. Water gas sets and accessories..... | 7,000 00 | ----- | 7,000 00 |
| 7. Accessory equipment at work..... | 16,326 53 | 8,686 97 | 7,639 56 |
| 8. Gas distribution | 150,054 39 | 3,882 46 | 146,171 93 |
| 9. Gas service | 40,473 63 | 3,037 16 | 37,436 47 |
| 10. Gas meters | 2,708 48 | 1,233 93 | 1,474 55 |
| 11. Miscellaneous distribution equipment..... | 9,551 42 | 107 44 | 9,443 98 |
| 12. General structures | 536 26 | ----- | 536 26 |
| 13. General shop equipment..... | 3,576 98 | 146 02 | 3,430 96 |
| 14. Contingencies | 3,045 26 | 2,849 89 | 195 37 |
| | \$390,396 06 | \$37,688 20 | \$352,707 86 |

Under the provisions of applicant's trust deed or mortgage, it is entitled to receive from the trustee, bonds of the face value of 75 per cent of proper capital expenditures. It is evident that the amount of bonds for which this Commission's authority is now requested, being bonds of the face value of \$27,000.00, is somewhat less than 75 per cent of the capital expenditures incurred in September, 1913.

I find that the purposes for which expenditures were incurred during the month of September, 1913, come within the general purposes specified in this Commission's opinion and order dated June 30, 1913. Applicant alleges that it expects to be able to sell its bonds for not less than 85 per cent of their face value.

I recommend that this supplemental application be granted, and submit herewith the following form of fourth supplemental order:

FOURTH SUPPLEMENTAL ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for the consent of the Commission to the issuance of bonds by said company of the face value of twenty-seven thousand (\$27,000.00) dollars, said bonds to be included within the general authorization heretofore given by this Commission's order in the above entitled proceeding, dated June 30, 1913, said bonds to be payable on the first day of March, 1939, and to bear interest at the rate of five (5) per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all the property of the company; and the Commission finding that the moneys to be procured by the

issue of said bonds are necessary to and reasonably required by said company for the discharge and refunding of obligations heretofore incurred for proper capital expenditures, and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego Consolidated Gas and Electric Company of twenty-seven thousand (\$27,000.00) dollars, face value, of bonds of said company, bearing numbers 3970 to 3996, inclusive, maturing the first day of March, 1939, redeemable on March 1, 1914, or on any interest date thereafter, at par, accrued interest and a premium of five (5) per cent on the principal thereof, and to bear interest at five (5) per cent per annum, payable semiannually, under and in pursuance of the terms of the deed of trust or mortgage heretofore and on the first day of March, 1909, made and executed by said San Diego Consolidated Gas and Electric Company to Harris Trust and Savings Bank and Los Angeles Trust Company, now known as the Los Angeles Trust and Savings Bank, as trustees, upon the conditions following and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said bonds hereby authorized so as to net said company not less than eighty-five (85) per cent of the face value of the principal thereof, besides interest accrued thereon.

2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds only for the purpose of discharging and refunding indebtedness incurred for capital expenditures made during the month of September, 1913, as those expenditures are set out in the opinion which precedes this order.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. San Diego Consolidated Gas and Electric Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustees under its said trust deed, on which statements or certificates it expects to receive from the trustees the bonds hereby authorized to be issued.

5. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the thirtieth day of November, 1914.

The foregoing fourth supplemental opinion and order are hereby approved and ordered filed as the fourth supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of October, 1913.

DECISION No. 1052.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO
NATURAL GAS COMPANY FOR PERMISSION TO ISSUE
BONDS OF THE PAR VALUE OF TWO HUNDRED THOU-
SAND DOLLARS.

Application No. 446.

Decided October 29, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, in its order made in the above-entitled proceeding on April 24, 1913, authorized Sacramento Natural Gas Company to issue 180 of its first mortgage thirty-year 6 per cent gold bonds of the par value of \$180,000.00, upon certain conditions, one of which was that the proceeds should be spent for the following purposes:

| | |
|---|-------------|
| (a) Payment of note of applicant due California National Bank of Sacramento, of the face value of----- | \$19,500 00 |
| (b) Reimbursement of treasury of applicant for money expended during the past five years in improvements to applicant's plant ----- | 4,100 00 |
| (c) Construction of gas holder----- | 35,000 00 |
| (d) Land upon which gas holder is to be constructed----- | 6,000 00 |
| (e) Meters ----- | 5,400 00 |
| (f) Extensions of mains and service pipes----- | 95,000 00 |
| (g) Boring gas well----- | 15,000 00 |

And applicant having requested that this Commission authorize the expenditure of \$7,400.00 for meters, the additional \$2,000.00 being taken from the item of \$6,000.00 allowed for the purchase of land for the construction of a gas holder; and the Commission being of the opinion that the order heretofore made should be amended in these particulars,

It is hereby ordered that the order heretofore made in this proceeding on April 24, 1913, be amended so as to authorize applicant to expend the proceeds derived from the 180 of its first mortgage thirty-year 6 per cent gold bonds, therein authorized to be issued, for the following purposes only:

| | |
|---|-------------|
| (a) Payment of note of applicant due California National Bank of Sacramento, of the face value of----- | \$19,500 00 |
| (b) Reimbursement of treasury of applicant for money expended during the past five years in improvements to applicant's plant ----- | 4,100 00 |
| (c) Construction of gas holder----- | 35,000 00 |
| (d) Land upon which gas holder is to be constructed----- | 4,000 00 |
| (e) Meters ----- | 7,400 00 |
| (f) Extensions of mains and service pipes----- | 95,000 00 |
| (g) Boring gas well----- | 15,000 00 |

The order heretofore made shall, in all other respects, remain as originally issued.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of October, 1913.

DECISION No. 1053.

IN THE MATTER OF THE APPLICATION OF THE DOS PALOS TELEPHONE COMPANY FOR PERMISSION TO ISSUE STOCK.

Application No. 772.

Decided October 30, 1913.

Held, Applicant authorized to issue 1,273 shares of its capital stock of the par value of \$1.00 per share, proceeds to be used for betterments and additions to plant.

F. E. Ross, E. W. Heston, and D. A. Leonard, for Applicant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application for permission to issue 1,273 shares of the capital stock of the Dos Palos Telephone Company, 497 shares of which are sought to be issued in lieu of a like number of shares issued subsequent to the effective date of the Public Utilities Act without the prior authorization of the Commission, and the balance of 776 shares

to be issued and sold for the purpose of additions and betterments to the applicant's telephone system as required in the development of the business.

The Dos Palos Telephone Company is an incorporated company duly organized and operating under the laws of this State with an authorized capitalization of \$50,000.00, divided into 50,000 shares of the par value of \$1.00 per share. Of the authorized capital stock there have issued as of the date of this application, inclusive of the 497 shares issued subsequent to March 23, 1912, a total of 4,727 shares.

As shown in the applicant's financial statement, filed with this application, the value of the property involved is approximately \$5,000.00. Sufficient information was not submitted at the hearing to enable the Commission to pass on this valuation and the applicant was directed to file at once an itemized inventory and appraisal of the company's plant and property. The order herein recommended is made contingent upon the filing with the Commission of this inventory and appraisal and the Commission reserves the right to withhold its approval of the valuations therein for rate making or other purposes.

It was shown at the hearing of this application that the stock which has been issued and sold subsequent to the effective date of the Public Utilities Act, without the prior authorization of the Commission, was issued and sold in ignorance of the requirements of the act requiring such authorization, and without any intent of violating the provisions of the law.

It was also shown that the applicant has developed a necessary telephone service in a community previously unprovided for, and that the proceeds from the stock which has been sold since March 23, 1913, have been used for purposes of extending and improving the service. Additional funds will be required to make further extensions and betterments.

I am of the opinion that the public convenience and necessity will be subserved by the granting of this application and recommend the following form of order:

ORDER.

Application having been made by the Dos Palos Telephone Company for an order of this Commission authorizing it to issue 1,273 shares of its capital stock at the par value of \$1.00 per share, 497 shares of which are sought to be issued in lieu of a said equal number of shares heretofore issued without the prior approval of this Commission, in ignorance of the provisions of the Public Utilities Act, and the full amount of the money received from the sales of said 497 shares heretofore issued having already been used for purposes of making additions and better-

ments to the applicant's telephone plant; and the remainder of 776 shares which are sought to be issued and sold are for purposes of extending and improving the applicant's telephone system; and a public hearing having been held and it appearing that the purposes for which the money received from the sales of the said 497 shares of stock were not, in whole or in part, reasonably chargeable to operating expenses or to income, and it further appearing that the purposes for which the Dos Palos Telephone Company desires to issue the said additional 776 shares of its stock are not, in whole or in part, reasonably chargeable to operating expenses or to income; and it further appearing that the applicant received not less than 100 per cent of the par value thereof for the said 497 shares of stock heretofore issued,

It is hereby ordered that the Dos Palos Telephone Company be and it hereby is granted authority to issue 497 shares of its capital stock upon the following conditions and not otherwise:

1. Said stock herein authorized shall be issued to the following persons in substitution for an equal number of shares shown to have been issued, as follows:

| Date. | Issued to | No. of shares. | Value. |
|---------------|---------------------------|----------------|----------|
| May 21, 1912 | Mrs. Lydia Ross..... | 200 | \$200 00 |
| June 13, 1912 | N. W. Moore..... | 10 | 10 00 |
| June 13, 1912 | John Walter | 25 | 25 00 |
| June 14, 1912 | E. W. Heston..... | 17 | 17 00 |
| Feb. 15, 1913 | Adolph Sousa | 25 | 25 00 |
| Feb. 27, 1913 | Mrs. L. Batten..... | 25 | 25 00 |
| Feb. 27, 1913 | Mrs. J. S. Armstrong..... | 30 | 30 00 |
| Apr. 5, 1913 | Wm. Ross | 100 | 100 00 |
| Apr. 8, 1913 | D. A. Leonard..... | 65 | 65 00 |

2. Before said stock shall be issued the certificates of stock, in lien of which said stock is hereby authorized to be issued, shall be called in by the applicant and canceled.

And it is further ordered that the Dos Palos Telephone Company be and it hereby is granted authority to issue 776 additional shares of its capital stock, at the par value of \$1.00 per share, upon the following conditions and not otherwise, to wit:

1. The stock herein authorized to be issued shall be issued so as to net the Dos Palos Telephone Company not less than the par value thereof.

2. The proceeds of the stock herein authorized to be issued shall be used for making betterments in its plant as set out in the opinion in this application.

3. The Dos Palos Telephone Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds derived from the sale of the stock herein authorized to be issued and on or before the twenty-fifth day of each month shall make a verified report to the Commission showing the sale or disposition of the stock herein authorized to be issued, the terms and conditions of such sale and the disposition of the proceeds derived therefrom, all in accordance with the Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

4. This order to be and become effective upon the filing with this Commission on the part of the Dos Palos Telephone Company an itemized inventory and appraisal of its plant and property, satisfactory to the Commission, said filing to be made on or before thirty days from the date of this order.

5. The authority herein granted to issue stock shall apply only to stock issued prior to February 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of October, 1913.

DECISION No. 1054.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS
GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHOR-
IZING THE ISSUE OF BONDS OF THE FACE VALUE OF
ONE HUNDRED AND FOURTEEN THOUSAND DOLLARS.

Application No. 789.

Decided October 30, 1913.

Held, Applicant authorized to issue bonds of the face value of \$114,000.00 to be sold at not less than 90, or pledged at not less than 75, as security for certain promissory notes; proceeds of said bonds to be used to pay off certain promissory notes.

Chickering & Gregory and Warren Gregory, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order of this Commission authorizing the issue of bonds of the face value of \$114,000.00 for the purpose of paying off certain of applicant's promissory notes, as will hereinafter appear in greater detail.

Applicant was incorporated under the laws of this State on March 18, 1912, with power, among others, to conduct a gas, electrical and water public utility business. Applicant immediately thereafter acquired both the capital stock and the property of the Monterey County Gas and Electric Company, the Monterey Gas and Electric Company, Salinas Water, Light and Power Company, California Consolidated Light and Power Company, and Salinas Valley Water Company. The California Consolidated Light and Power Company had acquired all the capital stock and the property of the Monterey County Gas and Electric Company, the Monterey Gas and Electric Company, and the Salinas Water, Light and Power Company, except the water properties of the Salinas Water, Light and Power Company, which properties were conveyed to the Salinas Valley Water Company. The California Consolidated Light and Power Company also owned the capital stock of the Monterey and Pacific Grove Railway Company, operating an electric line of railway between Monterey and Pacific Grove.

Applicant distributes electricity and gas in Monterey and Pacific Grove, electricity, gas and water in Salinas, electricity and water in King City and electricity in towns between Salinas and King City. It secures its electric energy from the Sierra and San Francisco Power Company.

Applicant's authorized capital stock consists of five million dollars, divided into 50,000 shares of the par value of \$100.00 each, of which 20,000 shares are preferred and 30,000 shares common. This stock was all issued immediately prior to March 23, 1912, being the effective date of the Public Utilities Act, in exchange for the capital stock and the properties of the corporations hereinbefore mentioned, subject to their outstanding obligations.

At the time applicant acquired the stock and properties of said companies, it agreed to assume their bonded indebtedness and their floating indebtedness in addition to issuing all its capital stock in exchange therefor. The bonded indebtedness so assumed was as follows:

| | |
|---|---------------------|
| Monterey Gas and Electric Company----- | \$180,000 00 |
| Salinas Water, Light and Power Company----- | 150,000 00 |
| Monterey County Gas and Electric Company----- | 170,000 00 |
| Total ----- | \$500,000 00 |

All the bonds of the Salinas Water, Light and Power Company the Monterey County Gas and Electric Company have been acquired by applicant and have been deposited, together with their coupons, for the purpose of redemption. All the bonds of the Monterey Gas and Electric Company, except two of the face value of \$500.00 each, have likewise been acquired by applicant and deposited for redemption. Applicant hopes to be able in the near future to secure the release of all of these mortgages, so that its own bond mortgage will become a first lien on all of its property except the capital stock and the bonds of the Monterey and Pacific Grove Railway Company, which are expressly excepted from its bond mortgage. The floating indebtedness of the companies so taken over amounted to \$209,119.53. A witness on behalf of applicant testified at the hearing that, in his opinion, the physical properties taken over by applicant were worth at that time \$912,355.22. This estimate represents the property depreciated to its estimated actual value, including materials and supplies, but not working capital or organization or development charges. It is evident that even with such additions as may properly be made for these items or some of them, the five million dollars of stock represents a relatively very small actual value. Most of it would seem to be water. As soon as possible applicant should make the necessary changes on its books, so as to establish a proper relationship between the value of the property and the amount of its capital stock.

Applicant has authorized the issue of its first mortgage forty-year gold bonds, of the total face value of ten million dollars, payable on March 1, 1952, consisting of 10,000 bonds of the face value of \$1,000.00 each. These bonds are to bear interest at the rate of 6 per cent per annum, and are secured by a deed of trust or mortgage from Coast Valleys Gas and Electric Company to Mercantile Trust Company of San Francisco, trustee, which document is dated as of March 1, 1912. Of the bonds so authorized, applicant has issued bonds of the face value of \$786,000.00. These bonds were sold at 95 per cent of the par value thereof, with accrued interest to date of delivery, making a total of \$749,451.00 derived therefrom. Of these proceeds, some \$474,000.00 were used to redeem the underlying bonds, some \$124,000.00 were applied on the floating debt of the consolidated companies, and the remaining amount was applied for additions and betterments.

As of August 31, 1913, applicant had outstanding the following one-day promissory notes:

| Name | Date | Interest | Amount |
|--|---------------|------------|--------------|
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | \$10,000 00 |
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | 10,000 00 |
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | 10,000 00 |
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | 10,000 00 |
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | 10,000 00 |
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | 10,000 00 |
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | 10,000 00 |
| California Railway and Power Co..... | July 1, 1913 | 7 per cent | 2,500 00 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 4,595 38 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 4,077 10 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 7,254 19 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 2,902 20 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 3,726 21 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 10,000 00 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 1,340 95 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 4,247 01 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 10,000 00 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 4,166 55 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 3,783 61 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 7,666 95 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 7,352 24 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 6,339 09 |
| Sierra and San Francisco Power Co..... | July 31, 1913 | 7 per cent | 10,000 00 |
| Total | | | \$159,951 48 |

On the same day there were accounts payable outstanding amounting to \$66,644.03.

As already stated, one of applicant's witnesses testified that the value of the physical property of applicant, depreciated to its estimated actual value as of August 31, 1912, was \$912,355.22. While this appraisement has not been brought up to date, applicant claims that for expenditures incurred since August 31, 1912, and up to August 31, 1913, there should be added the amount of \$158,058.32, making a total estimated value of physical property as of August 31, 1913, amounting to \$1,070,413.54. To this amount should be added certain organization expenses, which applicant's witnesses estimated at \$300,000.00, but on which amount it is not necessary for this Commission to pass at this time. Without passing on the actual value of applicant's property, I am satisfied that if the Commission authorizes the issue of the bonds now applied for, there will be a sufficient margin between the value of the property and the amount of the bonds outstanding. Applicant is now preparing and will shortly file with the Commission, for its information, a complete estimate of the value of its property.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Applicant gives its earnings and expenses for the twelve months ending August 31, 1913, as follows:

| GROSS EARNINGS. | | |
|---|------------------|-----------|
| Electric ----- | \$144,986 | 10 |
| Gas ----- | 41,062 | 26 |
| Water ----- | 21,404 | 78 |
| Miscellaneous ----- | 9,905 | 25 |
| Total earnings ----- | \$217,358 | 39 |
| EXPENSES. | | |
| Operating expenses ----- | \$113,452 | 81 |
| Taxes ----- | 8,783 | 47 |
| Total operating expenses and taxes ----- | 122,236 | 28 |
| Net earnings ----- | \$95,122 | 11 |
| Interest on bonds ----- | \$47,230 | 43 |
| Interest on floating debt ----- | 8,846 | 60 |
| Uncollectible accounts ----- | 237 | 57 |
| Miscellaneous deductions from surplus ----- | 100 | 00 |
| Total deductions ----- | 56,414 | 60 |
| Net income ----- | \$38,707 | 51 |

Applicant now asks authority to issue bonds of its authorized issue, having a face value of \$114,000.00. Applicant intends to use the proceeds of these bonds to take up as many as possible of the notes hereinbefore set out. Of the proceeds of the California Railway and Power Company notes, the sum of \$64,753.20 were used to make part payment on the floating debt of its predecessors, assumed by the Coast Valleys Gas and Electric Company, and some \$7,746.70 went into additions and betterments. The notes to the Sierra and San Francisco Power Company were testified to represent labor, material and supplies furnished by the Sierra and San Francisco Power Company to the applicant.

Section 3 of article I of applicant's deed of trust or mortgage to Mercantile Trust Company of San Francisco provides in part that of the total authorization of ten million dollars, bonds of the face value of one million dollars may from time to time be certified and delivered by the trustee to an amount or amounts not exceeding in the aggregate 100 per cent of the reasonable cost to applicant of any new or additional properties purchased or acquired or of any permanent additions, extensions, improvements or betterments made after March 1, 1912. The bonds now proposed to be issued are included within this first one million dollars. Applicant has attached to its application a statement marked "Schedule No. 4," showing an expenditure of \$276,898.98, incurred on capital account between March 20, 1912, and August 31, 1913. Without analyzing this statement in detail, it appears that the

bonds which it is now desired to issue represent far less than 100 per cent of the capital expenditures made subsequent to March 20, 1912. The remaining bonds of the face value of nine million dollars can only be issued up to 80 per cent of the reasonable cost of additional capital expenditures.

Section 4 of article I of applicant's bond mortgage or deed of trust provides in part that no bonds in addition to the \$786,000.00, face value, first delivered, may be certified until the earnings of the applicant for the period of twelve months ending not more than sixty days prior to the respective applications for certification of such bonds, after deducting operating expenses, shall have been equal in each case to at least one and three fourths times the total annual interest charges on all outstanding bonds, together with the bonds for which application is made and any secured indebtedness, the lien or liens of which shall be prior to the lien of the bond mortgage, on any property hereafter acquired by the company. Schedule No. 5, attached to the application, shows net earnings for the year ending August 31, 1913, amounting to \$95,122.11. The interest on the bonds already issued amounts to \$47,160.00 per year, and that on the bonds for which authority is now asked will amount to \$6,840.00, making a total of \$54,000.00. One and three fourths ($1\frac{3}{4}$) times this amount yields the sum of \$94,500.00, thus leaving a margin of \$622.11 over the requirements of the bond mortgage.

Applicant has made no definite arrangement for the sale of the bonds which it now desires to issue. It asks authority either to sell the same at not less than 90 per cent of their face value or, in the event it can not sell the bonds at once, authority to pledge the same as security for the payment of promissory notes, the face value whereof shall be at least 75 per cent of the face value of the bonds so pledged. If the promissory notes so executed are to run for more than twelve months, it will be necessary hereafter to secure this Commission's authority to issue the same.

I find that the proceeds to be derived from the issue of said bonds are not reasonably chargeable to operating expenses or to income, and recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

Coast Valleys Gas and Electric Company having applied to the Railroad Commission for its order authorizing the issue by said company of its bonds to the amount of \$114,000.00, face value, to be payable on March 1, 1952, and to bear interest at the rate of 6 per cent per annum, payable semiannually, and secured by a deed of trust or mortgage upon

all the property of said company, except the shares of the capital stock and bonds of the Monterey and Pacific Grove Railway Company, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Coast Valleys Gas and Electric Company be and the same is hereby authorized to issue its bonds of the face value of one hundred and fourteen thousand dollars (\$114,000.00), being bonds numbered 787 to 900, inclusive, maturing the first day of March, 1952, and to bear interest at the rate of six (6) per cent per annum, payable semiannually, under and in pursuance of the terms of the trust deed or mortgage from Coast Valleys Gas and Electric Company to Mercantile Trust Company of San Francisco, trustee, dated as of March 1, 1912, on the following conditions and not otherwise, to wit:

1. Coast Valleys Gas and Electric Company may either sell said bonds so as to net said company not less than ninety (90) per cent of the face value of the principal thereof, besides interest thereon, or pledge the same to secure the payment of promissory notes, the face value whereof shall be at least seventy-five (75) per cent of the face value of the bonds so pledged.

2. Coast Valleys Gas and Electric Company shall use the proceeds of said bonds only for the purpose of paying off the promissory notes set out in the opinion which precedes this order, or so many thereof as applicant can pay off with the proceeds of said bonds.

3. Coast Valleys Gas and Electric Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the sale or pledge of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales or pledge of said bonds during the previous month, the terms and conditions of such sale or pledge, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. Coast Valleys Gas and Electric Company shall file with the Railroad Commission certified copies of such certificates as the company may file with the trustee under its bond mortgage to secure the authentication and delivery of the bonds hereby authorized to be issued.

5. The authority hereby given shall apply only to bonds issued on or before the first day of July, 1914.

6. The authority hereby given shall not become effective until the applicant has paid the fee prescribed in section 57 of the Public Utilities Act, as amended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of October, 1913.

DECISION No. 1055.

SAN FRANCISCO CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 385.

Decided October 30, 1913.

Held, That the rate of \$1.25 per ton on clay in carload lots of 60,000 pounds from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs, to South San Francisco, East Oakland and Alameda, is unjust and excessive.

Held, That defendant publish and file with this Commission, within twenty days, a rate of 85 cents per ton on clay in carload lots of 60,000 pounds between these points.

Seth Mann and *Wm. R. Wheeler*, for the Complainant.

Geo. D. Squires and *H. G. Toll*, for the Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The complainant in this case, the San Francisco Chamber of Commerce, includes in its membership certain corporations engaged in the manufacture of clay products, such as fire brick, pressed brick, sewer pipe, terra cotta, drain tile and the like, whose factories are situated at South San Francisco, East Oakland and Alameda, and in the behalf of such members, it puts in issue, in this case, the reasonableness of the rate of \$1.25 per ton of 2,000 pounds maintained, charged and collected by the defendant Southern Pacific Company for the transportation of clay, in carload lots of 40,000 pounds or more, to said points of manufacture from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs, where are located the clay pits from which the clay used in these manufactories is largely obtained.

The complainant contends that the unreasonableness of the rates on clay, here involved, is evidenced by the fact that the same rates are charged for similar movements of the manufactured products thereof, an adjustment voluntarily established by the carrier, notwithstanding that the value of the products of clay is greatly in excess of the value of the clay itself, and it is urged that the rate on the clay should be materially lower than the rate on the products manufactured therefrom. This question was gone into at great length at the hearing and much testimony was introduced to establish the principle, but, in my opinion, it is unnecessary at this time to consider whether or not it can be laid down as a principle of general application or of particular application to the facts in this case, that the raw material is entitled to a lower rate than are the products manufactured therefrom, for the reason that it is conceded by the defendants that for the movements here involved the clay is entitled to a rate somewhat less than the rate on clay products, at least 80 per cent, and it is of record that the defendant Southern Pacific Company offered to reduce the rates, on clay, complained of to 90 cents per ton of 2,000 pounds, and from the testimony of the defendant in this regard it is reasonable to assume that there was to be no corresponding reduction in the rates on the clay products.

As a further cause for complaint it is urged that the rates charged for the transportation of clay, between the points designated, are higher than the rates contemporaneously maintained and charged for the transportation of commodities of similar nature and value under similar transportation conditions, which complainant contends demonstrates the unreasonableness of the rates on the clay and complainant shows that the Southern Pacific Company is maintaining and charging on such commodities as sand, gravel, boulders, crushed rock, disintegrated granite, granite spalls, grout, gutter rock, macadam, riprap, rubble, shale, tufa and waste rock, in carload quantities, rates which are considerably lower than the rates charged for the transportation of clay between the same points of origin and destination. The so-called shale, which is included in the crushed rock grouping and which the carrier is transporting at the same rates as apply to the other low-grade commodities mentioned, but which it has consistently refused to apply to clay, is to all purposes a clay of equal efficiency in the manufacture of clay products as many of the so-called plastic clays being used and on which a rate of transportation much greater is being paid. In this regard a witness for the complainant testified that from analyses and experiments with shale, as far as they had extended, he had not found that the shale is less efficient in any respect than the clay generally used in the plant of the company of which he is superintendent. The

defendant contends in this regard that the rates on crushed rock, and the articles taking the same rates, were so extended so as to apply on shale on the representation and understanding that it was a waste rock similar to the other rock materials contained in the crushed rock grouping, and that it, the carrier, had no knowledge that the so-called shale could be substituted for plastic clay in the manufacture of clay or pottery products, and I am of the opinion that the carrier was misled, and, upon a misunderstanding, extended to shale the rates applying on crushed rock and similar commodities.

The carrier justifies the lower rates on the crushed rock on the grounds that the rates were originally established on a low basis to foster and encourage the use of crushed rock and similar materials in the construction of roads and in establishing the rates thereon it had in mind largely the general public good; and the carrier further contends that the difference in value between crushed rock and the commodities taking the same rates, and clay, is sufficient to justify the higher rate upon the clay. Again, that the transportation conditions are such that the lower rate upon the crushed rock than upon the clay is justified for the reason that it is largely moved in train loads, the equipment being immediately released upon arrival at destination by dumping and is thereafter immediately available for reloading. While there is, no doubt, merit to the contention that the rates on crushed rock were originally established for the purpose of promoting the building of public roads, this same reason does not justify nor did the carrier attempt, in this manner, to justify the lower rates on the sand and gravel than on the clay, but admitted, because of the competition between crushed rock, sand and gravel—all of which are used as building and construction material—a rate was established on gravel and sand similar to that applied on the crushed rock. In this regard a witness for the defendant testified, as follows:

“The first rock rates were made primarily for the movement of crushed rock as road material * * * very low rates on crushed rock were necessary if it was to be used at all for the making of roads * * * it was impossible to restrict the use of the crushed rock on which this rate was applied. Especially after the destruction of San Francisco there was a large movement of crushed rock into this point for reinforced concrete work for building purposes. The rate on crushed rock that was put in for road material likewise applied on that material. * * * After that rate was applied on this material without any restrictions it naturally came in competition with kindred articles like sand and gravel, which were also used in the manufacture of concrete work, and it was almost impossible to differentiate in the rate between these commodities that came in competition with each other and were used for identically the same purpose.”

As regards the transportation conditions surrounding the traffic under consideration, it is my opinion that any advantages that might accrue to the carrier because of the movement of the crushed rock in train-load lots is offset by the fact that in such cases special equipment is usually necessary, that an empty back-haul for the equipment so utilized is generally made and that equipment moving into factories, loaded with clay, is entirely utilized and loaded out of the factory with the manufactured products of the clay; in fact, the manufactories of clay products, involved in this proceeding, load and ship out from their factories approximately two carloads of clay products to each carload of clay shipped in. Again, the sand and gravel and materials other than crushed rock do not usually move in train loads. Nor is it my opinion that any justification exists for a higher rate upon the clay than upon sand and gravel and like commodities, on the theory that the value of the clay is sufficiently in excess of the value of the other commodities to justify a difference in rate. The testimony in this case does not seem to sustain this contention of the carrier. It is of record that the clay at the pit brings approximately \$1.00 per ton, and that the value of the gravel and sand varies from \$.25 to \$1.00 per ton, and that the crushed rock and the other materials are of slightly less value, and it is my opinion that the difference in the value of these articles is not sufficient to justify a difference in the rating thereon, between the points involved in this proceeding, if that alone were the only element proper to consider, and this seems to have been the general conception of the relative values of fire clay, sand and gravel entertained by the framers of the western classification, inasmuch as these commodities are all rated at class "E" in that classification.

The complainant further urges that the commodities which are given the crushed rock, sand and gravel ratings in a great measure enter into competition with the products manufactured from clay and used in the construction of buildings, and that, therefore, the lower rate on the crushed rock, and similar materials, inures to the disadvantage of the manufacturers of clay products, and for this reason the rates should be similar where the conditions of transportation are similar. This latter principle, as a general proposition, is undoubtedly sound, but when, as is here the case, the commodities on which the lower rates are provided and with which comparisons are made, in addition to competing with the products of clay, supply a general demand and contribute generally to the development and upgrowth of the entire community, and by reason of that fact are given rates lower than would ordinarily be given, as the record shows in the case here, to permit of their free movement and distribution, I am of the opinion that the

general interest of the public justifies a reasonable difference between the rates on such commodities and on commodities limited to commercial uses strictly, even though the values and character of the commodities are similar and the conditions of transportation in all respects are equal.

After a full consideration of all the facts I find that the present rates on clay, in earloads, from Clayton, Lincoln, Ione, Clarksona, Yaru, Carbondale and Valley Springs to East Oakland, South San Francisco and Alameda (Pacific Avenue) are unreasonable, excessive and unjust, and that a reasonable and just rate upon clay, in earload lots of 60,000 pounds or more, from and to the points named, is 85 cents per ton of 2,000 pounds.

I therefore recommend the following form of order:

ORDER.

Complaint having been filed by the San Francisco Chamber of Commerce against the Southern Pacific Company as to the reasonableness of said company's rates on clay in earload quantities from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to South San Francisco, East Oakland and Alameda (Pacific Avenue) and a full investigation of matters and things involved having been had and a public hearing thereon having been held and being fully apprised in the premises,

The Commission finds as a fact that the rate on clay, in earloads, of \$1.25 per ton of 2,000 pounds from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to South San Francisco, East Oakland and Alameda (Pacific Avenue) maintained and charged by said Southern Pacific Company, is excessive, unjust and unreasonable, and that a just and reasonable rate on clay, in earload quantities of 60,000 pounds or more, from and to the points named, is 85 cents per ton of 2,000 pounds, and

It is hereby ordered that the Southern Pacific Company publish and file in tariff with this Commission, to become effective within twenty days from the date of this order, a rate of 85 cents per ton of 2,000 pounds on clay, in earload quantities of 60,000 pounds or more, from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to South San Francisco, East Oakland and Alameda (Pacific Avenue.)

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of October, 1913.

DECISION No. 1056.

JOSEPH S. ANDERSON

vs.

DE PUE WAREHOUSE COMPANY ET AL.

Case No. 358.

Decided October 30, 1913.

Held, Complaint that the rates of defendant for the storage of mineral waters in the city of San Francisco are unjust and unreasonable, dismissed.

Joseph S. Anderson, in propria persona.

C. W. Durbrow, for Defendants.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

The complainant in this case, Joseph S. Anderson, puts in issue the following rates charged for storage of mineral waters in various San Francisco warehouses operated by the defendants:

| Mineral water | Charges in cents for first month | | Charges in cents for each month thereafter | |
|-------------------------|-------------------------------------|-------|--|-------|
| | Storage | Labor | Storage | Labor |
| Case of 50 quarts..... | 5 | 2 | 5 | ----- |
| Case of 100 pints..... | 5 | 2 | 5 | ----- |
| Case of 100 splits..... | 3 | 2 | 3 | ----- |
| Case of 50 splits..... | 1½ | 1 | 1½ | ----- |

These rates, the complainant contends, are unjust, unreasonable and excessive as compared with rates for the storage of mineral waters in Eastern and Pacific coast cities of corresponding size to San Francisco, and higher than the rates charged and maintained by the defendant warehousemen in the past, and the Commission is asked to establish the following rates as just and reasonable for the service:

| Mineral water | Storage for first month. in cents | Storage for each month thereafter, in cents |
|-------------------------|---|--|
| Case of 50 quarts..... | 5 | 3 |
| Case of 100 pints..... | 5 | 3 |
| Case of 100 splits..... | 3½ | 2 |
| Case of 50 splits..... | 2½ | 1½ |

The rates for storage in the free warehouses in San Francisco, provided in the tariffs of defendants on file with the Commission, are the result of a compromise between defendant warehousemen and their patrons, and at the time this compromise was reached, it was understood that all parties interested had agreed on the schedules submitted, in which were included the rates on mineral water involved in this proceeding.

The complainant admits that he was aware that the matter of adjusting storage rates in which he was interested was being given consideration by the warehousemen and a committee of their patrons during the pendency of the application of these warehousemen to the Commission to increase their rates, and that he subscribed \$25.00 toward a fund to provide the necessary means for carrying on an investigation of the rates proposed by the warehousemen. Complainant contends, however, that he was not a party to the compromise and did not consent to the rates filed by the warehousemen, that he had no voice in the final adjustment of the rates for the storage of mineral water and that on several occasions he had attempted to confer with the parties directly in charge of the investigation for the storers, but was unsuccessful.

The complainant presented evidence to show that the rates charged for the storage of mineral water in defendant's warehouses are in excess of those charged for the storage of the same commodity in other large cities in the United States, but it is impossible from the record to determine that the same circumstances and conditions surround the rates in those cities as are present in San Francisco; that is, that the expense of conducting the business or other conditions of storage are of sufficient similarity to constitute the rates set out, in the statement, fair standards of reasonable rates for storage in San Francisco, and therefore it is impossible to reach any conclusion based on this evidence regarding the San Francisco rates for storage.

The buildings used for storage purposes in San Francisco may or may not be of more costly construction and on more valuable ground than in other cities, and the cost of conducting the business generally may or may not be higher in San Francisco than in the cities referred to by the complainant. We can not, therefore, determine that the rates for storage of mineral water in San Francisco are excessive on the showing that lower rates obtain elsewhere without any evidence as to the conditions existing at other points.

We have made an exhaustive investigation of the rates charged by the defendant warehousemen for the storage of commodities of similar character and similarly packed for the purpose of determining whether

under the present adjustment a proper relationship between the various commodities is maintained. Our investigations have led us to measure and weigh many different commodities which are now being stored in public warehouses in San Francisco and do not disclose that the rates for the storage of mineral water are unreasonably high as compared with the rates on such other commodities, considering all of the conditions or elements which I think should properly be given consideration in arriving at reasonable rates for storage, such as the weight, value of commodity, space occupied, the manner in which packed, and the characteristic features of the respective commodities. The bare fact that the present rates are in excess of the rates which have been charged for the storage of mineral waters in the past is not conclusive that the present rates are unjust, unreasonable and excessive.

After a full consideration of all of the facts, I am of the opinion that the evidence presented in this case does not establish the charge that the present rates for the storage of mineral water in the warehouses of the defendants are unjust, unreasonable and excessive, and I therefore recommend that the complaint be dismissed.

I submit herewith the following form of order:

ORDER.

Joseph S. Anderson having filed with this Commission a complaint as to the reasonableness of the rates charged for the storage of mineral water in the warehouses of the defendants in this proceeding, and a full investigation and a hearing of the matters and things involved having been had, and the Commission being fully apprised in the premises,

It is hereby ordered that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of October, 1913.

DECISION No. 1057.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE FACE VALUE OF ONE HUNDRED AND FIFTY THOUSAND DOLLARS SECURED BY BONDS.

Application No. 800.

Decided October 29, 1913.

Held, Applicant authorized to execute promissory notes in the aggregate amount of \$150,000.00 and to pledge bonds in an amount not to exceed the ratio of two to one, as security therefor, proceeds of said notes to be used partly for extensions and improvements to plant and partly to refund notes of applicant now outstanding.

L. E. Dadmun, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for authority to execute and deliver promissory notes of the face value of \$150,000.00, to be secured by bonds of applicant, as will appear in greater detail hereinafter.

Applicant was incorporated on July 15, 1907, under the laws of this State and has acquired by conveyance the property of Home Telephone and Telegraph Company of San Diego. Applicant uses the so-called Home or automatic telephone in San Diego and the manual system in certain adjacent towns. Applicant gives telephone service in San Diego, including La Jolla and Pacific Beach, and in the cities or towns of National City, Chula Vista, El Cajon, La Mesa, Lemon Grove, Del Mar, Coronado, East San Diego, South San Diego, Imperial Beach, and certain adjacent territory. The total number of telephones installed in this territory is 5,640. While the applicant alone serves a few of the smaller localities hereinbefore mentioned, it is as to most of the territory served in competition with the Pacific Telephone and Telegraph Company.

Applicant's authorized capital stock consists of 15,000 shares of the par value of \$100.00 each, with a total par value of \$1,500,000.00. Of the amount so authorized, 7,313 $\frac{1}{2}$ shares, having a total par value of \$731,320.00, have been issued, whereof 5,000 shares are held by the old Home Telephone and Telegraph Company of San Diego.

The Home Telephone and Telegraph Company of San Diego has outstanding a bond issue having a face value of \$500,000.00, which bonds

are a lien on that portion of applicant's property which was acquired from the Home Telephone and Telegraph Company of San Diego. Applicant itself has an authorized bond issue of \$1,500,000.00, whereof bonds of the face value of \$235,800.00 have been issued. There is thus a total of bonds of \$735,800.00 outstanding against applicant's property or some portion thereof. Applicant's bond issue is secured by mortgage or deed of trust, dated October 25, 1907, to Title Insurance and Trust Company of Los Angeles. This indenture provides for a sinking fund, to be paid out of earnings five years from its date and annually thereafter. Applicant has not complied with this provision, but its attention was directed thereto at the hearing and applicant gave assurances that it would give immediate attention to this matter.

Applicant has promissory notes outstanding as follows:

Note dated June 5, 1913, due six months after date, amount \$20,000.00, interest 6 per cent, payable to American National Bank.

Note dated in March, 1913, payable one day after date, amount \$14,800.00, interest 6 per cent, payable to Mary R. Day.

Note dated October 8, 1913, payable one day after date, amount \$16,000.00, interest 6 per cent, payable to Horace B. Day.

The proceeds of the foregoing notes or of the notes which were paid from their proceeds were all used for purposes which are properly chargeable to capital account.

Applicant alleges in its petition that its property has a value of \$1,323,833.52. It developed at the hearing that this is an estimate of the cost to reproduce the property new, and that it includes an addition of 25 per cent for piecemeal construction. The "book cost" of the property, as reported in applicant's report for the year ending December 31, 1912, on file with this Commission, was \$869,452.02, to which should be added about \$90,000.00 for additions since December 31, 1912. This "book cost" is the alleged amount of money actually invested in the system from time to time, and takes no account of depreciation. It seems clear that neither of the foregoing amounts represents the actual present value of the property. It is unnecessary in this proceeding to ascertain the exact value of the property, for the reason that I am convinced that there will be a sufficient margin between the value of the property and the outstanding bonds and notes so that in so far as this matter is concerned, the issue of the proposed notes may safely be authorized.

Applicant's annual report for the year ending December 31, 1912, as well as a statement filed at the hearing, covering the present year to August 31, 1913, are both uncertain and unsatisfactory with reference to earnings and expenditures, because it can not be ascertained therefrom exactly what net profits applicant is making. The president of the company testified at the hearing that the company is earning some

\$2,500.00 to \$3,000.00 each month as clear profit. In so far as reliance may be placed on the foregoing statements in this connection, they seem to bear out this claim. Applicant has never paid a dividend. Earnings are always put back into the property. Applicant now asks authority to execute and deliver its promissory notes in the total amount of \$150,000.00, due serially in from one to five years, bearing interest at the rate of six per cent per annum and secured by bonds of applicant. These notes are to be sold for 94 per cent of par and for as much more as applicant can secure therefor and are to be paid off out of earnings at the rate of about \$30,000.00 each year until paid. The proceeds of these notes are to be used as follows:

(1) To pay for underground conduit construction in San Diego, \$91,900.00.

This work will be necessary under certain ordinances of the city of San Diego, compelling all wires charged with electricity to be placed underground within a specified time and within a designated district. Applicant desires now to lay its telephone wires underground on Second, Third and Seventh streets, between A and I streets in San Diego, with laterals to connect Second, Third, Fourth, Sixth, Seventh and Eighth streets, and also on the lower three blocks of Fifth street. Applicant's estimate for this work is as follows:

| | |
|---|-------------------|
| 24,000 feet of underground conduit, 4 to 8 duct----- | \$48,000 00 |
| 35,000 feet of 300 pair cable and 5,200 feet of 100 pair cable_ | 28,900 00 |
| 50 manholes ----- | 4,000 00 |
| Labor covering above operations.----- | 5,000 00 |
| Extension on Fifth street----- | 6,000 00 |
| Total----- | <hr/> \$91,900 00 |

(2) To refund promissory notes, \$50,800.00.

Reference has hereinbefore been made to the three notes which constitute this total and to what applicant desires to do to refund these notes. If the funds to be derived from the sale of the notes now to be issued are not sufficient for all of applicant's needs as herein outlined, the notes held by Mary R. Day and Horace B. Day will not be refunded for the present.

(3) To make extensions and improvements as follows:

| | |
|-------------------|-------------------|
| La Jolla ----- | \$10,075 00 |
| La Mesa ----- | 800 50 |
| Ocean Beach ----- | 9,330 00 |
| El Cajon ----- | 2,462 00 |
| Total----- | <hr/> \$22,667 50 |

The details of these expenditures will appear in the order herein.

Applicant expects to be able to sell its notes at 94 per cent of par for the longer term notes and more for the shorter term notes. Authority is asked to pledge applicant's bonds at the ratio of \$3.00 of bonds to

\$1.00 of notes. This Commission has never authorized the pledging of bonds in so large a ratio and I can not believe that it is necessary in this case. Bonds in the ratio of 2 to 1 will give the lenders on the notes ample security, and I recommend that bonds to this amount only be authorized to be issued as collateral. When these bonds have served their purpose and have been returned to the treasury, they may not again be issued unless this Commission's consent has first been secured.

I find that the purposes for which it is proposed to use the proceeds of the notes hereby authorized are not in whole or in part properly chargeable to operating expenses or to income and recommend that the application be granted as indicated in the order.

I submit the following form of order:

ORDER.

San Diego Home Telephone Company having applied to the Railroad Commission for authority to issue its promissory notes in the aggregate amount of \$150,000.00, to be secured by applicant's bonds, as will hereinafter appear in greater detail, and a public hearing having been held and the Commission finding that the purposes for which the proceeds from said promissory notes are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Diego Home Telephone Company be and the same is hereby authorized to execute its promissory notes in the aggregate amount of one hundred and fifty thousand (\$150,000) dollars, payable at periods of one (1), two (2), three (3), four (4) and five (5) years, bearing interest at the rate of six (6%) per cent per annum, secured by applicant's bonds in an amount not exceeding the ratio of two to one, on the following conditions and not otherwise, to wit:

1. Said notes shall be sold so as to net San Diego Home Telephone Company not less than ninety-four (94%) per cent of the face value of the principal thereof.

2. The proceeds from the sale of said notes shall be applied to the following purposes:

(a) For the laying and placing of underground wires and cables in the city of San Diego, on the streets designated in the opinion which precedes this order, not to exceed \$91,000.00.

(b) For the refunding of the following promissory notes not to exceed the amount set opposite each thereof:

(1) Note dated June 5, 1913, due six months after date, amount \$20,000.00, interest 6 per cent, payable to American National Bank.

(2) Note dated March, 1913, payable one day after date, amount \$14,800.00, interest 6 per cent, payable to Mary R. Day.

(3) Note dated October 8, 1913, payable one day after date, amount \$16,000.00, interest 6 per cent, payable to Horace B. Day.

(c) For the construction and extension of the system of San Diego Home Telephone Company in each of the four localities hereinafter specified, amounts not to exceed the total specified with reference to each of said localities:

LA JOLLA.

| | |
|--|-------------------|
| 215 miles copper No. 12, galvanized----- | \$4,085 00 |
| 400 crossarms, insulators, pins, etc.----- | 400 00 |
| 40 anchors at \$7.00 each----- | 280 00 |
| Switch and rectifier----- | 2,500 00 |
| 100 poles 6 inches by 6 inches----- | 160 00 |
| Crossarms, etc., shorter than above----- | 480 00 |
| 100 telephones ----- | 1,200 00 |
| Secondary switches and repeaters----- | 830 00 |
| Total----- | \$9,535 00 |

LA MESA. (Three trunks.)

| | |
|--|-----------------|
| 4 miles iron wire----- | \$216 00 |
| Crossarms, pins, insulators, etc.----- | 60 00 |
| 3 switches at \$35.00 each----- | 105 00 |
| 11 repeaters at \$6.50 each----- | 71 50 |
| 6 jacks at \$3.00 each----- | 18 00 |
| Labor ----- | 330 00 |
| Total----- | \$800 50 |

OCEAN BEACH.

| | |
|---|-------------------|
| 160 30-foot poles----- | \$1,000 00 |
| 120 25-foot 6-inch by 6-inch poles----- | 192 00 |
| 140 crossarms, insulators, pins, etc.----- | 140 00 |
| 30 anchors ----- | 210 00 |
| Messenger and hangers----- | 500 00 |
| 10 terminal heads----- | 100 00 |
| Batteries and charging outfit----- | 500 00 |
| Bare copper wire----- | 342 00 |
| 1 200-party switch----- | 1,800 00 |
| Labor ----- | 956 00 |
| Cable, 4 miles No. 19, galvanized, 25 pair at 17 cents----- | 3,590 00 |
| Total----- | \$9,330 00 |

EL CAJON. (Three trunks.)

| | |
|--|-------------------|
| Galvanized iron wire----- | \$540 00 |
| 82 30-foot poles----- | 514 00 |
| 400 crossarms, insulators, pins, etc.----- | 400 00 |
| 25 anchors, at \$7.00 each----- | 175 00 |
| 10 switches at \$35.00----- | 350 00 |
| 20 repeaters at \$6.50 each----- | 130 00 |
| Labor ----- | 450 00 |
| Total----- | \$2,559 00 |

3. San Diego Home Telephone Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the promissory notes hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said notes during the previous month, the terms and conditions

of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

4. The authority hereby given shall apply only to promissory notes executed on or before July 1, 1914.

5. The authority hereby given shall not become effective until applicant has complied with the sinking fund provisions of its bond mortgage and has filed with the Commission a statement, satisfactory to the Commission, showing such compliance.

6. The authority hereby given shall not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, as amended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of October, 1913.

DECISION No. 1058.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF SIX HUNDRED AND THIRY-NINE THOUSAND DOLLARS.

Application No. 590.

Decided October 30, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENT TO THIRD SUPPLEMENTAL ORDER.

It appearing that, through a clerical error, the numbers of the bonds authorized by this Commission's third supplemental order, dated September 25, 1913, are stated to be 3944 to 3968, inclusive, instead of 3945 to 3969, inclusive,

It is hereby ordered that said third supplemental order be and the same is hereby amended by substituting the numbers "3945 to 3969, inclusive," for the numbers "3944 to 3968, inclusive." In all other respects said third supplemental order shall remain in full force and effect.

Dated at San Francisco, California, this 30th day of October, 1913.

DECISION No. 1059.

IN THE MATTER OF THE APPLICATION OF A. R. PEDDER
FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND
NECESSITY REQUIRE THE CONSTRUCTION OF A WATER
SYSTEM IN THE TOWN OF DAVIS.

Application No. 798.

Decided October 30, 1913.

Application of A. R. Pedder for a certificate that public convenience and necessity require the construction of a water system in certain territory in the town of Davis, granted.

A. R. Pedder, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application under the provisions of section 50 of the Public Utilities Act for a certificate that public convenience and necessity require the construction by A. R. Pedder of a water system in what is known as Bower's Lot Addition to the town of Davis, and also to serve one house in an adjacent tract known as Bower's Acreage Addition, this house now being occupied by one Doyle.

Mr. Pedder has heretofore subdivided a tract containing some eighteen or twenty acres known as Bower's Lot Addition, north of Davis, and has obligated himself to furnish water to this tract. He has dug a well some 105 feet deep, has erected a tank house containing some 3,000 gallons, has installed a two-inch pump, has laid some pipe and is now serving four houses. This Commission's consent should have been secured under the provisions of section 50 of the Public Utilities Act before the construction of this system was commenced, but Mr. Pedder acted in ignorance of the provisions of this section and with no intent to violate the Public Utilities Act.

The Davis Water Company was represented at the hearing and stated that it had no objection at the present time to the granting of Mr. Pedder's application. This company, while contemplating the construction of a water system for the entire town of Davis, has not as yet begun the extensions to its pipe line system and is in no position as yet to supply water to the tract which Mr. Pedder desires to serve.

In view of Mr. Pedder's agreement to supply water to the purchasers of his lots and of the necessities of the persons buying such lots and erecting houses thereon, I am of the opinion that the appli-

ation should be granted, but that the territory to be served should be limited as indicated by Mr. Pedder.

I submit herewith the following form of order :

ORDER.

A. R. Pedder having filed with this Commission his application for a certificate that public convenience and necessity require or will require the construction of a water system to supply water to what is known as Bower's Lot Addition to the town of Davis and to the house at present being supplied by Pedder and located in the Bower's Acreage Addition to the town of Davis, and a public hearing having been held upon said application,

The Commission hereby finds that public convenience and necessity require the construction of said water system.

This certificate shall not become effective until A. R. Pedder has secured from the board of supervisors of Yolo County the necessary franchise or permit for the use of the public highways in connection with the construction and operation of this system, and has secured from this Commission its order authorizing the exercise of rights thereunder.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California this 30th day of October, 1913.

DECISION No. 1060.

IN THE MATTER OF THE APPLICATION OF CAMPBELL WATER COMPANY FOR AUTHORITY TO ISSUE TWO HUNDRED AND FIFTY-NINE SHARES OF STOCK OF THE PAR VALUE OF TWENTY-FIVE DOLLARS PER SHARE.

Application No. 588.

Decided October 31, 1913.

Held. Applicant permitted to issue 19 shares of capital stock of the par value of \$25.00 per share, proceeds to be expended in improvements to plant.

Held. Application of the Campbell Water Company to issue 240 shares of capital stock of the par value of \$25.00 per share to be distributed pro rata among stockholders as a stock bonus against surplus reinvested in plant, denied.

John F. Duncan, secretary Campbell Water Company, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by Campbell Water Company to issue 259 shares of its capital stock of the par value of \$25.00 per share. It is proposed to issue 19 shares in lieu of a like number of shares issued on January 17, 1913, without the authority of this Commission and to issue 240 shares pro rata to applicant's holders of stock against its surplus which it estimates at \$6,000.00.

Campbell Water Company is engaged in the business of selling water for domestic purposes in the town of Campbell, Santa Clara County. At the time of its application it had an authorized issue of 300 shares of stock of the par value of \$25.00 per share. It has since amended its articles of incorporation and now has an authorized issue of 1,000 shares of stock of the par value of \$25.00 per share.

Previous to the adoption of the Public Utilities Act, Campbell Water Company had issued 221 shares of stock for which it had received \$5,225.00 in cash. On January 17, 1913, it issued 19 additional shares at \$25.00 per share and invested the proceeds in additions to its plant. These 19 shares were issued in ignorance of the Public Utilities Act and without the approval of this Commission and are, therefore, void.

Applicant now desires authority to issue 19 shares of stock in lieu of the 19 shares illegally issued on January 17, 1913. As these shares were issued without knowledge of the Public Utilities Act and without wrong intent, I recommend that this portion of the application be granted.

Applicant states that the money realized from the sale of its stock, in the sum of \$6,000.00, was invested in its water plant.

During its many years of operation, the company has reinvested a large part of its surplus earnings, and states that its full investment has now reached the sum of \$12,336.45. An investigation by the Commission's engineers indicates value approximating \$12,000.00. It thus appears that applicant has invested surplus earnings in its plant to the amount of approximately \$6,000.00. It now desires to issue stock pro rata to its present holders to the amount of 240 shares against this surplus. This is, in reality, a stock bonus.

The Public Utilities Act makes no provision for a stock issue of this sort against surplus and, therefore, the Commission is without power to grant this portion of the application. I recommend, therefore, that this portion of the application to issue 240 shares of stock in the form of a stock bonus against surplus reinvested in property be denied.

I submit the following form of order:

ORDER.

Campbell Water Company having applied to this Commission for authority to issue 259 shares of its capital stock of the par value of \$25.00 per share, and a hearing having been held and it appearing that it is the purpose to issue 19 shares of said stock in lieu of 19 shares illegally issued on January 17, 1913; and it appearing further that full par value of \$25.00 per share was received from the sale of said 19 shares and that said sum of \$475.00 was duly invested in applicant's plant, and was, therefore, not used for purposes wholly or in part chargeable to operating expenses or to income;

It is hereby ordered that Campbell Water Company be given authority, and it is hereby given authority, to issue 19 shares of its capital stock.

It appearing further that Campbell Water Company desires to issue 240 shares of its capital stock to present holders of stock as a stock bonus against surplus reinvested in plant, and there being no authority in the Public Utilities Act under which the Commission may permit such issue of stock;

It is hereby ordered that the application of Campbell Water Company to issue said 240 shares of stock be and it is hereby denied.

The authority hereby given to Campbell Water Company to issue 19 shares of its capital stock is given on the following conditions and not otherwise:

(1) Said 19 shares of stock shall be issued in substitution for 19 shares of stock of Campbell Water Company issued on January 17, 1913, and shall be issued to the present holders of said 19 shares of stock so issued.

(2) Campbell Water Company shall present evidence to this Commission that the 19 shares of stock illegally issued on January 17, 1913, have been returned to it and cancelled.

(3) Campbell Water Company shall file a statement, within sixty days, with this Commission showing that it has issued said 19 shares of stock herein authorized to be issued to the present holders of the 19 shares of stock illegally issued on January 17, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of October, 1913.

Decision No. 1061, grade crossing; not printed. See end of volume.

DECISION No. 1062.

IN THE MATTER OF THE APPLICATION OF DAVIS WATER
COMPANY FOR PERMISSION TO ISSUE STOCK AND CER-
TIFICATES OF INDEBTEDNESS.

Application No. 593.

Decided October 30, 1913.

Supplemental order authorizing applicant to issue capital stock of the par value of \$37,125.00 at 80, in lieu of stock of the par value of \$29,700.00, previously authorized to be issued at par.

T. C. Schmeiser, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an amendment of this Commission's order rendered on August 15, 1913, in the above entitled proceeding. The Commission is asked to amend its order in two respects:

1. Applicant desires authority to issue its capital stock of the face value of \$37,125.00, to be sold so as to net applicant not less than 80 per cent of the par value, instead of the \$29,700.00 of stock which applicant was heretofore authorized to sell at not less than par.

2. Applicant desires to install a concrete double tank water tower instead of one of steel, as authorized by the Commission's said order.

Applicant testified that it had tried to sell its stock at par but that it was unable to do so. Applicant expressed the opinion that if it were authorized to sell the stock for as low as 80 per cent of its face value it would have no difficulty in disposing of stock sufficient to raise the sum of \$29,700.00, this being the amount necessary for the construction of its contemplated water plant and distributing system in Davis.

Referring to the water tank, applicant has been investigating the subject and believes that it would be better to install a concrete water tank holding 300,000 gallons of water than to install the steel tank heretofore contemplated. The concrete tank would hold a considerably increased amount of water with no additional expenditure.

I recommend that the application be granted, and submit herewith the following form of order:

SUPPLEMENTAL ORDER.

Davis Water Company having applied to this Commission for its order amending, in the respects hereinafter indicated, the order here-

tofore rendered on August 15, 1913, in the above entitled proceeding, and a public hearing having been held upon said application, and the Commission finding that the applicant's request is reasonable and should be granted,

It is hereby ordered that the order heretofore on August 15, 1913, made in the above entitled proceeding be and the same is hereby amended as follows:

1. In lieu of the authority to sell applicant's capital stock at par of the face value not to exceed twenty-nine thousand seven hundred (\$29,700) dollars, applicant is authorized to sell its capital stock of a par value not to exceed thirty-seven thousand one hundred and twenty-five (\$37,125) dollars so as to net applicant not less than eighty (80%) per cent of par.

2. Applicant is given authority either to erect a double tank steel water tower or a double tank concrete water tower at a cost not to exceed in either event the sum of eight thousand (\$8,000) dollars.

In all other respects this Commission's said order, dated August 15, 1913, shall remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of October, 1913.

Decisions Nos. 1063, 1064 and 1065, grade crossings; not printed. See end of volume.

DECISION No. 1066.

IN THE MATTER OF THE APPLICATION OF STOCKTON
TERMINAL AND EASTERN RAILROAD COMPANY FOR AN
ORDER AUTHORIZING AN ISSUE OF BONDS OF THE
FACE VALUE OF SIXTY-FIVE THOUSAND DOLLARS.

Application No. 51.

Decided November 5, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It is hereby ordered that the proceeds from the bonds heretofore authorized to be issued in the above entitled proceeding, said proceeds not to exceed the sum of \$2,718.00, may be utilized for the purpose of ballasting the applicant's line of railroad over thirty-three blocks in the

city of Stockton, as provided in supplemental order this day entered in Application No. 336, and also that applicant may pledge bonds authorized to be issued in the above entitled application as security for the payment of moneys borrowed for said purpose in an amount not to exceed \$2,718.00, not to exceed \$2.00 of bonds to be pledged as security for \$1.00 of indebtedness.

It is also ordered that the time within which the bonds authorized to be issued in the above entitled application may be issued is hereby extended to and including April 1, 1914.

Dated at San Francisco, California, this 5th day of November, 1913.

DECISION No. 1067.

IN THE MATTER OF THE APPLICATION OF STOCKTON
TERMINAL AND EASTERN RAILROAD COMPANY FOR
AN ORDER AUTHORIZING AN ISSUE OF BONDS OF THE
FACE VALUE OF THREE HUNDRED SEVENTY-EIGHT
THOUSAND EIGHT HUNDRED DOLLARS.

Application No. 336.

Decided November 5, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas the order entered in the above entitled proceeding on March 20, 1913, provided in part for the issue by applicant of bonds of the face value of \$90,000.00, for the purpose of extending applicant's line of railroad from its present terminus in Stockton to Stockton Channel, and also for the issue of bonds not to exceed the sum of \$45,000.00, for the improvement of applicant's line of railroad from Stockton to Bellota, including the sum of \$14,000.00 for depot grounds and terminal grounds in Stockton; and

Whereas it now appears that the city authorities of Stockton have directed that applicant ballast thirty-three blocks of its line of railroad in the city of Stockton, and that no allowance was made for ballast in the estimates heretofore submitted by applicant, and that applicant has requested that it be authorized to issue bonds of the face value of \$5,000.00, to be sold so as to net applicant not less than \$4,000.00, which sum of money, together with other moneys, is to be

used for the purpose of ballasting applicant's said thirty-three blocks in the city of Stockton, and applicant has requested that said bonds, of the face value of \$5,000.00, be taken from the bonds which have heretofore been authorized for the purpose of acquiring said depot grounds and terminal grounds; and

Whereas it appears that said application should be granted.

It is hereby ordered that said application be and the same is hereby granted. In all other respects this Commission's said order dated March 20, 1913, in the above entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this 5th day of November, 1913.

DECISION No. 1068.

IN THE MATTER OF THE APPLICATION OF W. H. MOFFETT
AND J. A. MOFFETT, DOING BUSINESS UNDER THE FIRM
NAME OF W. H. MOFFETT & SON, FOR AUTHORITY TO
SELL A CERTAIN TELEPHONE SYSTEM.

Application No. 788.

Decided November 5, 1913.

Applicants granted permission to sell to Paul Huneke, for the sum of \$850.00, a certain telephone exchange located at Lemon Cove, California.

REPORT OF THE COMMISSION.

W. H. Moffett and J. A. Moffett, doing business under the firm name of W. H. Moffett & Son, having applied to this Commission for permission to sell to Paul Huneke, for the sum of \$850.00, a certain telephone exchange, located at Lemon Cove, California, and known as the Lemon Cove Telephone Exchange, and consisting of certain property hereinafter specified; and the Commission being duly advised and being of the opinion that this application should be granted, and also, that this is not a case in which a public hearing is necessary.

It is hereby ordered that W. H. Moffett and J. A. Moffett, doing business under the firm name of W. H. Moffett & Son, be and they hereby are authorized to sell to Paul Huneke, for the sum of \$850.00, that certain telephone exchange located at Lemon Cove, California,

and known as the Lemon Cove Telephone Exchange, and consisting of the following described property, to wit:

- 1 No. 1305 switchboard, fitted with 10 pair cords; 28 jacks for lines; 1 electric motor for ringing and generator;
- 1 operator's chair;
- 1 inside fuse rack;
- 1 outside fuse rack;
- 90 feet of 50-pair lead cable;
- 8 miles of loop circuit wire; 4 miles of same on crossarms, balance on insulators on poles;
- 28 magneto wall sets;
- 22 drop wires from phones to lines, together with fuses, etc.

The authority herein granted applicants is granted upon the express condition that the amount paid for the property herein authorized to be transferred shall not be taken before this Commission, nor any other public utility body, as representing, for rate fixing or other purposes, the actual value of the property transferred.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of November, 1913.

DECISION No. 1069.

IN THE MATTER OF THE PROVISIONS OF SECTION 21 OF
ARTICLE XII OF THE CONSTITUTION OF CALIFORNIA,
RELATING TO LONG AND SHORT HAULS AND THROUGH
RATES EXCEEDING THE AGGREGATE OF INTERME-
DIATE RATES.

Case No. 214.

Decided November 5, 1913.

Application of the San Pedro, Los Angeles and Salt Lake Railroad Company for permission to deviate from certain published rates, in violation of the long and short haul provisions of the constitution, denied.

REPORT OF THE COMMISSION.

On December 29, 1911, the San Pedro, Los Angeles and Salt Lake Railroad Company filed its Application No. 1 for authority to generally continue fares for the transportation of passengers or baggage from any point to any other point on its line, lower than the fares concurrently in effect to intermediate points. Otherwise stated, the San Pedro, Los Angeles and Salt Lake Railroad Company asked for

authority to disregard entirely the long and short haul provision of the constitution as to all of its passenger fares. No specific instances of departure from the long and short haul provisions of the constitution were set out and the applicant, after examination of its tariffs, was unable to locate any such, and stated that were any such violations found, they would be corrected as rapidly as possible.

A hearing having been held, and full investigation of the matters and things involved in application having been had, and it appearing that, as admitted by the applicant, it is not practicable in this case to charge more for short passenger hauls than for long hauls, for the reason that passengers can purchase tickets for the more distant point and leave the train short of the destination to which the ticket was purchased; and that ample time has elapsed in which to ascertain if any fares of the carrier are in violation of the long and short haul provision and correct same, the Commission is of the opinion that an order should be issued denying the application;

It is therefore ordered that Application No. 1 of the San Pedro, Los Angeles and Salt Lake Railroad Company, dated December 29, 1911, for authority to continue fares for the transportation of passengers or baggage from any point to any point on its line lower than the fares concurrently in effect to intermediate points be and it is hereby denied.

Dated at San Francisco, California, this 5th day of November, 1913.

Decisions Nos. 1070 and 1071, grade crossings; not printed. See end of volume.

DECISION No. 1072.

THE CITY OF PETALUMA
vs.
THE PETALUMA POWER AND WATER COMPANY.

Case No. 368.

Decided November 5, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The city of Petaluma having on November 4, 1913, made written request that the complaint in the above entitled proceeding be dismissed,

It is hereby ordered that the complaint in the above entitled proceeding be and the same hereby is dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 5th day of November, 1913.

DECISION No. 1073.

IN THE MATTER OF THE PROVISIONS OF SECTION 21,
ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA,
RELATING TO LONG AND SHORT HAULS AND THROUGH
RATES EXCEEDING THE AGGREGATE OF INTERME-
DIATE RATES.

Case No. 214.

Decided November 7, 1913.

Application of the Southern Pacific Company to add five cents to its one-way fares between Lathrop, and the following points, Niles, Sunol, Pleasanton and Livermore, so as to comply with the long and short haul provisions of the constitution, granted.

REPORT OF THE COMMISSION.

The Southern Pacific Company on December 30, 1911, filed its Application No. 4 to increase its one-way passenger fares between Lathrop and Niles, Sunol, Pleasanton and Livermore five cents, in order to bring its through passenger fares based on these points within the provisions of section 21, article XII, of the constitution, as amended October 10, 1911, prohibiting the charging of through fares in excess of the aggregate of the intermediate fares.

The applicant alleged that it was through error that the present fares were established between the points involved and that unless the application is granted its present adjustment of one-way passenger fares between Oakland and Fruitvale and Lathrop and points south thereof will be materially affected, and that many reductions would have to be made in fares against which no complaint of unreasonableness had been made. The applicant further alleged that the traffic on the fares which it seeks to increase is immaterial, but nine tickets having been sold during the month of January, 1912, between Niles, Sunol, Pleasanton, Livermore and Lathrop.

A hearing having been held, and a full investigation of the matter involved in application having been had, and it appearing that the application should be granted,

It is therefore ordered that the Southern Pacific Company under its Application No. 4, of December 30, 1911, be and it is hereby authorized to increase its one-way passenger fare between Lathrop and Niles from \$1.60 to \$1.65, and between Lathrop and Sunol from \$1.40 to \$1.45, and between Lathrop and Pleasanton from \$1.25 to \$1.30, and between Lathrop and Livermore from \$1.05 to \$1.10.

Dated at San Francisco, California, this 7th day of November, 1913.

DECISION No. 1074.

IN THE MATTER OF THE APPLICATION OF THE TULARE
COUNTY POWER COMPANY FOR AN ORDER AUTHOR-
IZING IT TO EXECUTE A TRUST DEED, ETC.

Application No. 736.*Decided November 10, 1913.*

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner.*

It is hereby ordered that paragraph number (1) of the supplemental order of this Commission, dated October 8, 1913, in the above entitled matter, reading as follows:

“(1) To execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable February 1, 1914; \$25,000.00 being due and payable August 1, 1914; and the remainder of \$200,000.00 being due and payable February 1, 1915; all of said notes to be without interest save and except some portion of the \$50,000.00 considered interest, as set forth in the preceding opinion; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date,”

be amended to read as follows:

(1) To execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable February 1, 1914; \$25,000.00 being due and payable August 1, 1914; and the remainder of \$200,000.00 being due and payable February 1, 1915; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date:

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of November, 1913.

DECISION No. 1075.

IN THE MATTER OF THE APPLICATION OF SAN RAFAEL AND SAN ANSELMO VALLEY RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE TRANSFER OF THREE CERTAIN STREET RAILROAD FRANCHISES AND THE ISSUE OF STOCK AND BONDS.

Application No. 770.

Decided November 11, 1913.

Held. Applicant granted certificate of public convenience and necessity to construct and operate a line of railway between San Rafael and San Anselmo, under certain franchises transferred to applicant by S. J. Norton.

Held. Applicant authorized to issue its capital stock of the par value of \$55,000.00 and its bonds of the face value of \$45,000.00, both stock and bonds to be sold at par, proceeds to be used for construction purposes, only after a stated amount has been subscribed and paid in, and the Commission has made a supplemental order permitting applicant to begin the construction work.

Edward I. Butler, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for an order authorizing the assignment of three certain street railroad franchises from S. J. Norton to San Rafael and San Anselmo Valley Railway Company, hereinafter at times called the Railway Company, for an order declaring that the present or future public convenience and necessity will require the construction of a street railway and the exercise of rights and privileges granted by said franchises; and for an order authorizing the railway company to issue 4,000 shares of its capital stock, of the par value of \$25.00 per share, being a total par value of \$100,000.00, and its bonds in the face value of \$100,000.00. The Railway Company's articles of incorporation and also said franchises grant the right to construct lines of railway in addition to those which it is now intended to construct. The line of railway for which applicant at present asks authority to issue stock and bonds is to be constructed along the following route: Beginning at the point of intersection of the center line of Tamalpais avenue and the center line of Fourth street in the city of San Rafael, county of Marin, State of California, and thence westerly along the center line of Fourth street to the westerly corporate limits of the city of San Rafael; thence running obliquely to the southerly side of the San Rafael and Olema road, in the town of San Anselmo, and continuing westerly along the

southerly twelve feet of the San Rafael and Olema road to the intersection thereof with the center line of the county road leading from Red Hill to Ross Landing, and thence crossing obliquely the San Rafael and Olema road and running westerly and northwesterly along the northerly twelve feet of the San Rafael and Olema road to the intersection thereof with the westerly corporate limits of the town of San Anselmo; thence westerly and northerly along the San Rafael and Olema road to a point therein opposite the Fairfax station of the Northwestern Pacific Railroad Company. In San Rafael the line of railway will continue from the intersection of Fourth street and Petaluma avenue at the Union Depot down the center line of Petaluma avenue to a point near the intersection of Second street and San Quentin turnpike, at which point the Railway Company's car barns are to be located. The Railway Company intends to operate its railway by means of electric storage battery cars, which do not necessitate the construction of an overhead trolley system.

The Railway Company was incorporated under the laws of this State on August 5, 1913. The articles of incorporation were signed by some 186 persons, nearly all of whom own land in Marin County along the line of the proposed railway or in the vicinity thereof. These persons subscribed for between one and one hundred shares each and the total subscriptions, as shown by the articles of incorporation, amounted at the time of incorporation to \$40,675.00. It appeared at the hearing that several subscribers who live in San Rafael, between the Union Depot and the tunnel to the north thereof, and who expected the line of railway to be constructed from the Union Depot to the tunnel, have withdrawn their subscriptions and other persons have refused to pay, so that the total number of subscriptions on which the Railway Company relies amounts to \$30,000.00. Ten per cent of these subscriptions have been paid and are now on deposit in various banks in Marin County and an additional twenty per cent has been called, of which a portion has been paid.

The Railway Company's line of railway, as described in its articles of incorporation, is as follows: Beginning at a point in Petaluma avenue, in the city of San Rafael, county of Marin, State of California, where said avenue would be crossed by the northeasterly prolongation of the northerly line of lot 49 of Chula Vista Terrace, as per map in the Marin County recorder's office, thence southerly along Petaluma avenue to Mission street, thence easterly along Mission street to Tamalpais avenue, thence southerly along Tamalpais avenue to Fourth street and thence westerly along Fourth street to the westerly corporate limits of the city of San Rafael; thence through the town of San Anselmo westerly along the San Rafael and Olema road to the intersection thereof with the county road leading from Red Hill to Ross Landing;

thence westerly and northwesterly, as the case may be, along the said San Rafael and Olema road to the intersection thereof with the westerly corporate limits of the town of San Anselmo; thence continuing westerly and northwesterly, as the case may be, along the San Rafael and Olema road to a point therein opposite Fairfax Manor, as per map of said Fairfax Manor now of record in the office of the Marin County recorder, and thence through Fairfax Manor to the county road.

And the said street railroad will also be built along the following routes: Beginning at the intersection of Fourth street and Tamalpais avenue, in San Rafael, California, and running along Tamalpais avenue to Second street; thence westerly along Second street to Petaluma avenue; thence northerly along Petaluma avenue to Fourth street, and also from the intersection of Petaluma avenue and Mission street in said city of San Rafael, southerly along Petaluma avenue to Fourth street.

The articles allege that the estimated length of this line of railway, with all its branches, aggregates six miles, and that the principal place of business is to be the city of San Rafael.

S. J. Norton, the principal promoter of this enterprise, has heretofore secured three franchises for street railways, one from the city of San Rafael, one from the town of San Anselmo and one from the county of Marin, as follows:

The city of San Rafael, by charter Ordinance No. 3, adopted on September 15, 1913, granted to S. J. Norton and his assigns, for the term of forty-nine years, a franchise for a single track street railroad, to be operated by electricity or such other improved mode of operation as may be authorized by law, except steam locomotives, third rail, overhead trolley or any kind of underground system over the route therein described, which includes the route over which it is now intended to build, together with certain branches which the Railway Company does not at the present intend to construct. The franchise is granted upon certain conditions, to several of which I shall now refer. The grantees are given no right to carry freight, with certain unimportant exceptions, unless the city council may hereafter permit such carriage. The cars are to be operated in each direction between the hours of 7.00 a. m. and 10.00 p. m. at intervals of not more than twenty-five minutes. The center line of the railway is to be laid along the center line of the streets and all street work must be done with the same kind of material and at the same time and in the same manner as the remaining portions of the street. The tracks are to be single track of standard gauge, to be laid flush with the surface of the streets, with a proviso that after five years, upon demand of the city council, the Railway Company must replace such "T" rails as it may have laid with standard grooved rails. Work on the railway is to commence within four months from the granting of the franchise and must be completed within one year thereafter, other-

wise the franchise is to be forfeited throughout such portions of any particular route as may not then be completed, unless the time for the completion of such particular route be extended by the city council. Single fares for one continuous trip in one continuous direction within the city shall not exceed five cents. The city of San Rafael reserves the right at any time after five years to purchase the franchise and all the property and equipment used in the operation of the street railway at an appraised valuation, made in the manner specified in the ordinance. As provided by the Broughton Act, the grantee of the franchise and his assigns must pay to the city of San Rafael annually during the life of the franchise, 2 per cent of the gross annual receipts arising from the operation of the railway, provided that no percentage need be paid during the first five years succeeding the date of the franchise. A copy of this ordinance is attached to the application and marked "Exhibit B."

The town of San Anselmo, by Ordinance No. 106, adopted on September 5, 1913, granted to S. J. Norton and assigns, for the term of forty-nine years, the right to construct a single track street railroad from the easterly to the westerly limits of the town over a route therein described, on terms largely identical with those contained in the San Rafael ordinance, with the exception that the San Anselmo ordinance contains certain additional requirements, such as that the grantee shall, when ordered by the board of trustees, install ten 2,000-candle power are lights at points along the right of way designated by the board of trustees, which lights shall thereafter be maintained by the Railway Company; that no track shall be laid along or upon such bridges as may now or hereafter be constructed by the town of San Anselmo, and that no switch points, frogs or switch stands shall be permitted within a distance of twenty-five feet of any street termination or crossing; and that the purchase by the town of San Anselmo may be made at any time at an appraisal established as provided in the ordinance. A copy of this ordinance is attached to the application and marked "Exhibit C."

The county of Marin, by Ordinance No. 162, adopted on September 15, 1913, granted to S. J. Norton and assigns, the right to operate a single track street railroad over the remaining portion of applicant's proposed line of railway, from the westerly line of the corporate limits of the town of San Anselmo to a point in Fairfax opposite the northerly line of Fairfax Manor, on conditions practically identical with those specified in the San Rafael ordinance. A copy of this ordinance is attached to the application and marked "Exhibit D."

At the first hearing in this proceeding, held on October 16, 1913, the Railway Company presented an estimate of the cost of its proposed line of railway, totaling the sum of \$78,106.06. This estimate provided for 40-pound steel, which is manifestly too light, provided for only two

electric cars, and took no account of the necessary paving or bituminizing of the streets along or across the line of railway. Thereafter, at the adjourned hearing, which was held on November 3, 1913, the Railway Company presented a revised estimate, totalling \$97,379.92, which estimate is as follows:

| | |
|---|------------|
| 56-pound relay steel (subject to Hunt's inspection)----- | \$3,000 00 |
| 352 pair angle bars at \$1.50 ----- | 528 00 |
| 7 kegs track bolts at \$7.00 ----- | 49 00 |
| 30 kegs of track spikes at \$5.10 ----- | 153 00 |
| 5,280 tie plates at \$.12 ----- | 634 00 |
| 2,640 redwood ties 6 inches by 8 inches by 8 feet at \$.60----- | 1,584 00 |
| Grading ----- | 1,400 00 |
| Ballasting ----- | 1,800 00 |
| Track laying ----- | 1,000 00 |

| | |
|--|-------------|
| Total cost of road per mile (average)----- | \$10,148 00 |
| Number of miles ----- | 4.263 |

\$43,260 92

| | |
|--|----------|
| Bituminizing 5,600 linear feet 8 feet wide, in San Rafael, at \$.14 per square foot ----- | 6,272 00 |
| Heading 5,600 linear feet with paving bricks on inside of tracks (40,000 bricks per mile at \$45 laid)----- | 1,900 00 |
| 2 concrete culverts and 4 or 5 24-inch by 30-inch corrugated iron pipe culverts (San Anselmo) to cost not to exceed----- | 1,500 00 |
| 650 feet of rails to be laid on Petaluma avenue, from Fourth street and Petaluma avenue to car barn site, at \$2.00----- | 1,300 00 |

| | |
|---|-------------|
| Total cost of roadbed (4.263 miles)----- | \$54,232 92 |
| Cost of 3 interurban type Beach storage battery cars (delivered in San Rafael) ----- | 25,500 00 |
| Cost of three franchises ----- | 747 00 |
| Estimated engineering costs ----- | 2,000 00 |
| Legal services ----- | 500 00 |
| Cost of generator and charging equipment (delivered and installed in car barn in San Rafael)----- | 2,000 00 |
| Site for car barn----- | 500 00 |
| Car barn ----- | 1,500 00 |
| Promotion stock to S. J. Norton ----- | \$2,500 00 |
| Promotion bonds to S. J. Norton----- | 1,700 00 |
| Promotion cash to S. J. Norton----- | 5,000 00 |

| | |
|---|----------|
| Total promotion fee to S. J. Norton----- | 9,200 00 |
| Cost of three sidings at \$400.00 each----- | 1,200 00 |

Total cost of road equipped for operation----- \$97,379 92

The sum of \$747.00 for three franchises is secured as follows:

| | |
|--|----------|
| Advertising in various newspapers ----- | \$607 00 |
| Cash paid to San Anselmo ----- | 50 00 |
| Cash paid to San Rafael ----- | 25 00 |
| Cash paid to Marin County ----- | 25 00 |
| Premium on surety bond to San Rafael, San Anselmo and Marin County ----- | 40 00 |
| Total ----- | \$747 00 |

It will be noted that promotion fees are to be paid to S. J. Norton as follows :

| | |
|---------------------|------------|
| Capital stock ----- | \$2,500 00 |
| Bonds ----- | 1,700 00 |
| Cash ----- | 5,000 00 |
| Total ----- | \$9,200 00 |

This total is to include all of Mr. Norton's services to date and the services which he is hereafter to perform in selling the Railway Company's stock and bonds and completing the project. It appeared at the hearing that Mr. Norton started work on this project in October, 1912. He is manager of an abstract company in San Rafael, but has given the larger portion of his time since October, 1912, to this contemplated line of railway. He personally solicited some 750 persons for subscription to stock and obtained the subscriptions of the persons whose names are attached to the articles of incorporation. He also prepared or secured the preparation of such plans and estimates as have been prepared in connection with this line of railway. In the fall of 1912 he applied for the three franchises hereinbefore referred to, and subsequent to that time he made efforts to secure the franchises, until in September of this year he was finally successful. Mr. Norton's proposed fees for promotion include such services as he will hereafter perform in disposing of the Railway Company's stock and bonds. The stock and bonds are all to be sold at par, and the promotion fees hereinbefore referred to include in part what might properly be termed a commission on the sale of the stock and the bonds. Under all the circumstances of this case, I am of the opinion that the fee which is to be paid to Mr. Norton is a reasonable one. A promoter is certainly entitled to a reward for his services in the organization and promotion of a public utility corporation if such enterprise is completed and is of value to the community. On the other hand, it does not seem reasonable that a promoter should receive his fee before he has demonstrated that his enterprise is successful and is of public service. Consequently, I shall recommend that the stock and the bonds and \$2,500.00 in cash out of the total of \$5,000.00 in cash which the directors have agreed to pay to Mr. Norton, shall be paid to him when the \$50,000.00 hereinafter referred to has been deposited, and that the remaining sum of \$2,500.00 in cash shall be paid to Mr. Norton when the enterprise has been completed, as hereinafter provided.

At the adjourned hearing, Mr. Norton presented a revised estimate of daily operating expenses, as follows:

| | |
|---|---------|
| 6 platform men, 8 hours per day each at 35 cents per hour..... | \$16 80 |
| Electric power at 1½ cents per kilowatt hour for 16 trips per car per day, based on a round trip of 8.526 miles | 5 11 |
| Manager at \$125.00 per month | 4 16 |
| Track walker, a laborer, per day | 2 50 |
| Bond interest on \$45,000.00 at 6 per cent | 7 40 |
| Maintenance and depreciation on 3 cars at 1½ cents per car mile | 6 12 |
| Depreciation on ties and rails, 5 per cent | 62 |
| Total | \$42 71 |

The foregoing total does not include an item for sinking fund. The officers of the Railway Company intend to provide for a sinking fund to commence after the road has been in operation for five years. No deed of trust or mortgage has as yet been executed. The order in this proceeding will provide that before the bonds may be issued a deed of trust, or mortgage, shall first have been presented to, and approved by, this Commission.

The railroad company intends to charge 5 cents for a one-way trip over any portion of its line of railway in one direction. On the basis of an expense of \$42.71 per day, and a five cent fare, it is evident that the Railway Company must haul at least 850 one-way paying passengers each day in order to make its expenses. The most serious question in this application is whether it will be possible for the Railway Company to develop so large a business and, if not, how the deficit from time to time can be taken care of. The testimony at the hearing shows that the population in the entire territory to be served does not exceed 9,000 people, roughly divided, as follows:

| | |
|-------------------|-------|
| San Rafael | 5,934 |
| San Anselmo | 2,640 |
| Fairfax | 400 |

Almost one tenth of this number of people will have to ride one way each day on this line of railway before the Railway Company's expenses can be met.

Mr. Norton testified that one of the chief reasons for the proposed line of railway was the present service of the Northwestern Pacific Railroad Company in this territory. This company at present operates a suburban electric service between San Rafael, San Anselmo and Fairfax, as well as in other portions of Marin County. Witnesses at the hearing testified that this service was unsatisfactory, partly because of the infrequency of the trains, partly because of the failure to make close connections at San Anselmo, partly because of the rate and partly because the railway does not reach new territory which it is now desired to build up. During the middle of the day, the Northwestern Pacific's

service is hourly; during the morning and afternoon hours, it is half hourly; and at night a few trains run at periods considerably in excess of an hour. The people traveling from San Rafael to Fairfax must generally wait eight minutes at San Anselmo before they can continue on their journey to Fairfax. At night, it sometimes takes an hour and five minutes to ride from San Rafael to Fairfax. The fare between any two contiguous stations on the Northwestern Pacific between San Rafael and Fairfax via San Anselmo is ten cents for a single trip. The round trip fare between San Rafael and San Anselmo is fifteen cents and between San Rafael and Fairfax twenty-five cents. The one-way fare between San Rafael and Fairfax is fifteen cents and the round trip fare between San Anselmo and Fairfax is also fifteen cents. Referring to the point that the Northwestern Pacific does not serve certain territory which it is now desired to build up, the witnesses testified that the territory close to the line of the Northwestern Pacific Railroad Company at its stations has been quite generally purchased and settled upon, and that it is now desired to tap outlying territory, which is located at some distance from the stations of the Northwestern Pacific.

At the original hearing, the Railway Company introduced an estimate of the number of passengers who would use its cars each day, this estimate being 770 average week day fares one way. Of this number, 410 fares were to be collected from persons traveling from San Francisco, San Rafael, San Anselmo and Fairfax who might use this line for "recreation and sight-seeing" each day.

At the adjourned hearing, the Railway Company presented a revised estimate, as follows:

| | |
|---|--------------|
| 25 persons residing south of Fourth and west of Marin streets in San Rafael, who would use the cars every work day in the week----- | 50 |
| 20 persons residing in the west end of San Rafael north of Fourth street, who would use cars every day in the week ----- | 40 |
| 75 San Francisco visitors to San Rafael, San Anselmo and Fairfax, who would make the round trip for sight-seeing ----- | 150 |
| 75 San Rafael people, who would make the round trip for recreation and sight-seeing ----- | 150 |
| 45 San Anselmo people, who would make the round trip for recreation and sight-seeing ----- | 90 |
| 20 Fairfax people, who would make the round trip for recreation and sight-seeing ----- | 40 |
| Real estate agents' customers, and others ----- | 100 |
| Persons traveling between San Rafael, San Anselmo and Fairfax on business ----- | 528 |
| Total ----- | 1,148 |

In explanation of the large number of local people who are counted on to use this line each day for recreation and sight-seeing, Mr. Norton testified that a large number of people in these communities have nothing else to do, and that they would welcome the opportunity of

taking a street car ride for recreation and sight-seeing. The estimate of 528 people using the line each day for business purposes between San Rafael, San Anselmo and Fairfax is the result of observations made by Mr. Norton concerning the traffic which moved over the line of the Northwestern Pacific Railroad Company between these points on October 22d, 28th and 29th of this year. Mr. Norton testified that an average of 358 people actually traveled during the morning and afternoon hours of these days, that 70 more should be added to represent the middle of the day traffic and that 100 more should be added to represent the San Anselmo and Fairfax traffic, making a total of 528. He estimates that all these people would use the street car line, if the same were in operation.

While Mr. Norton testified that, in his opinion, enough passengers would use this line of railway to meet the expenses, several other witnesses frankly stated that it was their opinion that the line would not pay, certainly at first. In view of the large number of passengers which the line would have to convey each day to meet its expenses, and of the relatively very heavy traffic which would be represented by the number of passengers so needed, I think it reasonable to assume that at least for a number of years this line of railway will not pay expenses.

The officers of the Railway Company testified that in securing subscriptions they had uniformly pointed out to the intending subscriber that this line of railway would probably not pay expenses for a number of years to come, and also that it would probably be necessary to call upon the stockholders to pay assessments from time to time to meet the expenses. Responsible citizens of San Rafael testified that, in their opinion, the stockholders would meet these assessments, and that if some of them refused to pay, other persons would take their stock and pay the assessments, so as to keep up the railway. They testified that it was generally understood that this railway was to be constructed not for the purpose of declaring dividends for the stockholders, but of increasing the value of land and enhancing the prosperity of the communities affected. The president of the railway testified that it was to his interest as well as the interest of other merchants of San Rafael that this railway be constructed and operated, and that he would be willing personally to contribute \$100.00 per month, if necessary, to maintain the operation, and that he felt sure that other citizens would likewise be willing to do their part.

In view of the facts as developed at the hearing and herein set forth, the course to be pursued by this Commission on this application is not entirely free from doubt. While the Commission has repeatedly pointed out that it can not guarantee the success of a public utility to which it has given authority to issue stock or bonds, the Commission can not escape the conclusion that purchasers of public utility securities have

at times invested their money at least partly in reliance on this Commission's authorization, without making the independent investigation which they ought to make. The present project is, in important respects, an unusual one. It is primarily a people's project. Persons living in the communities affected or owning property there, have subscribed to the Railway Company's stock, not in the hope of securing dividends, but to increase the value of their property and to enhance the prosperity of their respective communities. Practically all the money to be derived from the sale both of the stock and of the bonds will have to be secured from people living in these communities, or owning property there, who fully understand the conditions. If these people are willing to build this line of railway and thereafter to pay to keep it in operation, if necessary, I am of the opinion that this Commission should be slow to say to them that they can not do so, simply because it is probable that for some time at least the railway will not pay expenses. Under all the circumstances which surround this project, I am of the opinion that this Commission's action should be confined to prescribing such conditions as may be necessary to safeguard reasonably the construction of the enterprise, to see to it that moneys are not expended until it seems reasonably certain that the enterprise can be completed, and to insure the sane and honest expenditure of such moneys as may be collected from the sale of stock and bonds.

The Railway Company's revised estimate of expenditures necessary to complete its line of railway, as hereinbefore stated, is \$97,379.92. While the Railway Company originally estimated that it would be necessary to sell capital stock of the par value of \$40,000.00 and bonds of the face value of \$40,000.00, it is clear that it will now be necessary to sell additional stock and bonds. In its estimate of current expenses, applicant has figured on a bond issue amounting to \$45,000.00. This would necessitate a stock issue, on a basis of the revised estimate, of about \$55,000.00, making a total of \$100,000.00. The balance between the \$100,000.00 and the \$97,379.92 would take care of unforeseen contingencies, or, if the road were actually constructed for less than \$100,000.00, the balance could be used, as far as it would go, to pay the probable deficits of the first few years. I shall recommend that the Railway Company be authorized to issue its bonds of the face value of \$45,000.00, and its capital stock of the par value of \$55,000.00, on the conditions hereinafter set forth and also specified in the order.

I shall now direct my attention to the possibility of securing the necessary funds.

As hereinbefore stated, applicant now has subscriptions to its capital stock which it considers to be good, amounting to \$30,000.00. An additional \$2,500.00 is to be paid to S. J. Norton for promotion. The Railway Company's witnesses were of the opinion that they would be able

to sell the remaining stock to persons living in the communities affected in Marin County.

Referring now to the bonds, the Railway Company intends to have the contractor take bonds of the face value of \$15,000.00, at par. If this arrangement is entered into, care will have to be taken with reference to the contract price, for the reason that it will probably be increased because of the partial payment in bonds. Mr. Norton testified that \$2,200.00 of bonds have been actually subscribed and that some \$3,000.00 of bonds will be used in payment of local items. He is to receive bonds of the face value of \$1,700.00 in part payment for promotion. The Railway Company is of the opinion that the remaining bonds can be disposed of to persons residing in the communities affected, or owning land therein. The Railway Company's witnesses thought that it would be impossible to secure from the purchasers of the bonds a waiver of the interest, say, during the first five years. Mr. Norton testified very frankly that if it should transpire, after securing the authorization of this Commission, that he and his associates were mistaken and that it was impossible to sell the amount of stock and bonds necessary to insure the successful completion and operation of the railway, the road would not be built. He stated that in his opinion it would be safe to go ahead only when all the stock and bonds, except bonds of the face value of \$10,000.00 and stock of the par value of \$10,000.00 had been sold. Mr. Norton also testified that, if necessary, he would waive a claim to the payment of \$5,000.00 in cash, as part of his promotion fee and would take bonds in lieu thereof.

I shall now address myself to the terms on which this Commission's consent in this case may be given. It is evident that some provision will have to be made so as to preclude the possibility of having a portion of the money collected and expended and of having it then be determined that the line can not be completed, with the result that the people who had invested their money would lose all of it without having a railroad. After mature consideration, I recommend to the Commission that it provide that construction work shall not start until 90 per cent of the bonds authorized and 90 per cent of the stock authorized have been subscribed by responsible parties and until the sum of \$50,000.00 in cash has been paid into a separate fund, or funds, in a bank, or banks, in Marin County, derived from the sale of stock and bonds, on the express condition that moneys paid into such fund or funds shall be returned to the persons who paid them, unless the total of \$50,000.00 is secured within a year from the date of this order, or within such further time as this Commission may allow. If the sum of \$50,000.00 is secured from the sale of stock and bonds within said time, I recommend that on securing a supplemental order from this Commission, specifying the details, the Railway Company be then authorized to proceed with the

construction of its line of railway. I recommend further that no expenditures shall be incurred by the railway company until said sum of \$50,000.00 in cash has been deposited, as aforesaid, unless the Commission shall in the mean time authorize the expenditure of small necessary sums. No stock or bonds should be issued by the Railway Company, except to Mr. Norton for promotion, until they have been fully paid for in cash. If the Commission should hereafter make a supplemental order authorizing the expenditure of moneys for construction, as hereinbefore specified, such order will provide for a strict accounting to this Commission for all moneys expended by the Railway Company and also that no contract over a sum specified shall be entered into by the Railway Company, without the prior consent of this Commission. If it becomes necessary to extend the time specified in the three franchises hereinbefore referred to, I assume that application for that purpose may be made to the city and county authorities.

I find that the moneys to be secured from the sale of the stock and bonds herein authorized to be issued are not in whole or in part chargeable to operating expenses or to income and submit herewith the following form of order:

ORDER.

S. J. Norton having applied for an order authorizing the assignment by him to San Rafael and San Anselmo Valley Railway Company of three certain franchises heretofore secured by said S. J. Norton from the city of San Rafael, the town of San Anselmo and the county of Marin, which said franchises are specifically referred to in the opinion which precedes this order, and San Rafael and San Anselmo Valley Railway Company having applied for a certificate that public convenience and necessity require the construction of a street railroad under said franchises and the exercise of rights and privileges thereunder, and San Rafael and San Anselmo Valley Railway Company having applied for an order authorizing the issue of its capital stock of the par value of \$100,000.00, and its bonds of the face value of \$100,000.00, to be secured by deed of trust or mortgage, covering all of the property of said company, and to bear interest at the rate of 6 per cent per annum, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the moneys to be secured from the sale of said stock and bonds are to be expended are not properly chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. S. J. Norton is hereby authorized to assign and transfer to San Rafael and San Anselmo Valley Railway Company all his rights under charter Ordinance No. 3 of the city of San Rafael, adopted on Sep-

tember 15, 1913, Ordinance No. 106 of the town of San Anselmo, adopted on September 5, 1913, and Ordinance No. 162 of the county of Marin, adopted on September 15, 1913. San Rafael and San Anselmo Valley Railway Company shall file with this Commission, and with each of the grantees of said franchises, respectively, certified copies of such assignment and transfer.

2. The Railroad Commission hereby finds that the present and future convenience and necessity require, or will require, the construction of the line of railway referred to in said ordinances and the exercise by San Rafael and San Anselmo Valley Railway Company of the rights and privileges conferred by said ordinances, on the condition that said San Rafael and San Anselmo Valley Railway Company complies with such conditions as this Commission may prescribe with reference to the financing of its line of railway.

3. San Rafael and San Anselmo Valley Railway Company is hereby authorized to issue its capital stock of the par value of \$55,000.00 and its bonds of the face value of \$45,000.00, said bonds to be secured by a deed of trust or mortgage on all of said company's property, and to bear interest at the rate of 6 per cent per annum on the following conditions, and not otherwise, to wit:

(a) San Rafael and San Anselmo Valley Railway Company shall issue its said capital stock and its said bonds so as to net said company not less than the par or face value thereof, except that the amount of stock, bonds and cash hereinafter specified may be paid to S. J. Norton for his promotion services, including the sale of the stock and bonds hereby authorized to be issued, and except that bonds may be issued to the contractor in part payment for his work if hereafter authorized by this Commission. No other stock or bonds shall be issued until they have been fully paid for in cash.

(b) The proceeds from the sale of said stock and bonds shall be used only for the purpose of constructing San Rafael and San Anselmo Valley Railway Company's line of railway in accordance with said company's revised estimate of approximate cost, totalling \$97,379.92, set out in full in the opinion which precedes this order, to which opinion reference is hereby made.

When the sum of \$50,000.00 hereinafter referred to shall have been deposited, the company may issue to S. J. Norton for his promotion services its capital stock of the par value of \$2,500.00, its bonds of the face value of \$1,700.00, and the amount of \$2,500.00 in cash. When the line of railway has been entirely completed and operation has commenced, the company may pay to Mr. Norton the remaining sum of \$2,500.00 in cash for promotion services.

(c) San Rafael and San Anselmo Valley Railway Company shall not commence construction work until 90 per cent of the capital stock hereby

authorized and 90 per cent of the bonds hereby authorized have been subscribed for by responsible parties and until this Commission has issued its supplemental order permitting such construction work.

(d) No expenditures chargeable to San Rafael and San Anselmo Valley Railway Company shall be incurred, unless this Commission's prior authorization therefor has first been secured.

(e) All moneys secured from the sale of stock and bonds shall be deposited by San Rafael and San Anselmo Valley Railway Company in a bank, or banks, in Marin County, California, as trust funds, on the express condition that if the total sum of \$50,000.00 shall not be so deposited in all of said banks within one year from the date of this order, or such further time as the Railroad Commission may grant, said moneys shall be repaid to the persons who paid them, either in toto, or diminished by their ratable proportions of such small expenditures as the Railroad Commission in the mean time may have authorized. If 90 per cent of the capital stock and 90 per cent of the bonds hereby authorized have been subscribed by responsible parties and said sum of \$50,000.00 in cash deposited within one year, or such further time as the Railroad Commission may have granted, San Rafael and San Anselmo Valley Railway Company may then apply to the Railroad Commission for its supplemental order authorizing the expenditure of said moneys for construction and the use for that purpose of the additional moneys which may thereafter be paid on subscriptions for stock and bonds. The supplemental order, in that event, will provide for the accounting to the Railroad Commission of all moneys expended by the Railway Company and also that no contract of an amount to be specified shall be entered into by the Railway Company without the prior consent of the Railroad Commission.

(f) San Rafael and San Anselmo Valley Railway Company shall keep separate, accurate and true accounts showing the receipt and deposit of all funds secured in payment for or on subscriptions to the stock and bonds hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, showing the receipt and deposit of all such moneys, the stock and bonds issued during the preceding month and the terms and conditions of the issue, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(g) The authority hereby given shall not become effective with reference to the bonds until San Rafael and San Anselmo Valley Railway Company shall first have presented to the Railroad Commission and secured the approval of the Railroad Commission to a deed of trust or mortgage securing the payment of said bonds.

(h) The authority hereby granted shall not become effective with reference to the bonds authorized to be issued until the fee prescribed by section 57 of the Public Utilities Act, as amended, has been paid.

(i) The authority hereby given to issue stock and bonds shall apply only to stock and bonds issued on or before the 1st day of December, 1914. If it is determined that all of such stock and bonds can not be disposed of within such time, application may be made to the Railroad Commission for an extension of time.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of November, 1913.

DECISION No. 1076.

IN THE MATTER OF THE APPLICATION OF INDIO LIGHT,
WATER AND ICE COMPANY FOR PERMISSION TO SELL
ITS WATER UTILITY PLANT.

Application No. 774.

Decided November 11, 1913.

Applicant authorized to sell all of its property devoted to water utility business to H. E. Gard, subject to certain conditions.

H. E. Gard, for Applicant and *in propria persona*.

Raymond Best, for The Riverside Abstract Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application on the part of the Indio Light, Water and Ice Company to convey to The Riverside Abstract Company, in trust for H. E. Gard, applicant's water utility plant, located at Indio, Riverside County, California. It was the intention of the applicant to convey to the abstract company all of its property, including both the water utility property and certain lots not necessary in its water business, located in the town of Indio, to be held in trust for H. E. Gard on the condition that when Mr. Gard should have paid the indebtedness of the applicant, the abstract company would then convey to him such property as it might still have on hand, including the water utility property. In pursuance of this arrangement, the applicant on July 3,

1913, executed its deed conveying all its property to the abstract company. On July 24, 1913, the abstract company thereafter executed its declaration of trust, declaring among other things, that when the debts of the applicant have been paid or secured by H. E. Gard to the satisfaction of the trustee, the abstract company will convey to Gard the title to all property and appurtenances connected with the water system and such other property as may not have been sold. As this Commission's consent was not secured prior to the execution of the deed from the applicant to the abstract company, as provided by section 51 of the Public Utilities Act, the deed is void in so far as affects the water utility property. The evidence in this proceeding shows that the deed was executed in ignorance of the provisions of section 51 of the act and with no intention to violate said act.

The Indio Light, Water and Ice Company was incorporated in December, 1904, for the purposes, among others, of conducting an electric, gas and water utility business and of conducting an ice and storage business, and also of buying and selling land. The company thereafter erected an ice and storage plant at the cost of some \$5,000.00 for the building and \$10,000.00 for machinery, all of which was burned several years ago. Immediately prior to July, 1913, the company owned and operated a water plant, supplying water to some fifty houses in Indio, and also certain town lots which were being sold from time to time. The company's property was mortgaged to secure the payment of a note, on which note some \$6,050.00 was due on the day of the hearing. The company was also indebted in the following amounts:

| | |
|--|-------------------|
| H. E. Gard for cash advanced..... | \$900 00 |
| For unpaid salary at \$50 per month..... | 641 34 |
| To W. F. Everett for cash advanced..... | 235 22 |
| To Marshall Lewis for cash advanced..... | 1,000 00 |
| For unpaid salary..... | 1,831 00 |
| Total | \$4,307 65 |

H. E. Gard is the only stockholder of financial responsibility remaining in Indio. He endorsed the note hereinbefore referred to and has agreed to pay the other debts of the applicant. The applicant consequently agreed that the property should be conveyed to him as soon as the indebtedness should have been paid. It was in the execution of this plan that the deed hereinbefore referred to was executed by applicant to the abstract company.

Mr. Gard testified that the value of the applicant's property was not in excess of \$8,000.00 or \$10,000.00. He stated that certain additions, improvements and repairs, such as a new pump, a larger storage tank and an extension of the mains would soon have to be made to the water plant, but that he was a minority stockholder in the applicant and that he was unwilling to make the improvements unless the property

DECISION No. 1073.

IN THE MATTER OF THE PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, RELATING TO LONG AND SHORT HAULS AND THROUGH RATES EXCEEDING THE AGGREGATE OF INTERMEDIATE RATES.

Case No. 214.

Decided November 7, 1913.

Application of the Southern Pacific Company to add five cents to its one-way fares between Lathrop, and the following points, Niles, Sunol, Pleasanton and Livermore, so as to comply with the long and short haul provisions of the constitution, granted.

REPORT OF THE COMMISSION.

The Southern Pacific Company on December 30, 1911, filed its Application No. 4 to increase its one-way passenger fares between Lathrop and Niles, Sunol, Pleasanton and Livermore five cents, in order to bring its through passenger fares based on these points within the provisions of section 21, article XII, of the constitution, as amended October 10, 1911, prohibiting the charging of through fares in excess of the aggregate of the intermediate fares.

The applicant alleged that it was through error that the present fares were established between the points involved and that unless the application is granted its present adjustment of one-way passenger fares between Oakland and Fruitvale and Lathrop and points south thereof will be materially affected, and that many reductions would have to be made in fares against which no complaint of unreasonableness had been made. The applicant further alleged that the traffic on the fares which it seeks to increase is immaterial, but nine tickets having been sold during the month of January, 1912, between Niles, Sunol, Pleasanton, Livermore and Lathrop.

A hearing having been held, and a full investigation of the matter involved in application having been had, and it appearing that the application should be granted,

It is therefore ordered that the Southern Pacific Company under its Application No. 4, of December 30, 1911, be and it is hereby authorized to increase its one-way passenger fare between Lathrop and Niles from \$1.60 to \$1.65, and between Lathrop and Sunol from \$1.40 to \$1.45, and between Lathrop and Pleasanton from \$1.25 to \$1.30, and between Lathrop and Livermore from \$1.05 to \$1.10.

Dated at San Francisco, California, this 7th day of November, 1913.

DECISION No. 1074.

IN THE MATTER OF THE APPLICATION OF THE TULARE
COUNTY POWER COMPANY FOR AN ORDER AUTHOR-
IZING IT TO EXECUTE A TRUST DEED, ETC.

Application No. 736.*Decided November 10, 1913.*

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner.*

It is hereby ordered that paragraph number (1) of the supplemental order of this Commission, dated October 8, 1913, in the above entitled matter, reading as follows:

“(1) To execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable February 1, 1914; \$25,000.00 being due and payable August 1, 1914; and the remainder of \$200,000.00 being due and payable February 1, 1915; all of said notes to be without interest save and except some portion of the \$50,000.00 considered interest, as set forth in the preceding opinion; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date,”

be amended to read as follows:

(1) To execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable February 1, 1914; \$25,000.00 being due and payable August 1, 1914; and the remainder of \$200,000.00 being due and payable February 1, 1915; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date:

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of November, 1913.

DECISION No. 1075.

IN THE MATTER OF THE APPLICATION OF SAN RAFAEL
AND SAN ANSELMO VALLEY RAILWAY COMPANY FOR
AN ORDER AUTHORIZING THE TRANSFER OF THREE
CERTAIN STREET RAILROAD FRANCHISES AND THE
ISSUE OF STOCK AND BONDS.

Application No. 770.

Decided November 11, 1913.

Held. Applicant granted certificate of public convenience and necessity to construct and operate a line of railway between San Rafael and San Anselmo, under certain franchises transferred to applicant by S. J. Norton.

Held. Applicant authorized to issue its capital stock of the par value of \$55,000.00 and its bonds of the face value of \$45,000.00, both stock and bonds to be sold at par, proceeds to be used for construction purposes, only after a stated amount has been subscribed and paid in, and the Commission has made a supplemental order permitting applicant to begin the construction work.

Edward I. Butler, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for an order authorizing the assignment of three certain street railroad franchises from S. J. Norton to San Rafael and San Anselmo Valley Railway Company, hereinafter at times called the Railway Company, for an order declaring that the present or future public convenience and necessity will require the construction of a street railway and the exercise of rights and privileges granted by said franchises; and for an order authorizing the railway company to issue 4,000 shares of its capital stock, of the par value of \$25.00 per share, being a total par value of \$100,000.00, and its bonds in the face value of \$100,000.00. The Railway Company's articles of incorporation and also said franchises grant the right to construct lines of railway in addition to those which it is now intended to construct. The line of railway for which applicant at present asks authority to issue stock and bonds is to be constructed along the following route: Beginning at the point of intersection of the center line of Tamalpais avenue and the center line of Fourth street in the city of San Rafael, county of Marin, State of California, and thence westerly along the center line of Fourth street to the westerly corporate limits of the city of San Rafael; thence running obliquely to the southerly side of the San Rafael and Olema road, in the town of San Anselmo, and continuing westerly along the

southerly twelve feet of the San Rafael and Olema road to the intersection thereof with the center line of the county road leading from Red Hill to Ross Landing, and thence crossing obliquely the San Rafael and Olema road and running westerly and northwesterly along the northerly twelve feet of the San Rafael and Olema road to the intersection thereof with the westerly corporate limits of the town of San Anselmo; thence westerly and northerly along the San Rafael and Olema road to a point therein opposite the Fairfax station of the Northwestern Pacific Railroad Company. In San Rafael the line of railway will continue from the intersection of Fourth street and Petaluma avenue at the Union Depot down the center line of Petaluma avenue to a point near the intersection of Second street and San Quentin turnpike, at which point the Railway Company's car barns are to be located. The Railway Company intends to operate its railway by means of electric storage battery cars, which do not necessitate the construction of an overhead trolley system.

The Railway Company was incorporated under the laws of this State on August 5, 1913. The articles of incorporation were signed by some 186 persons, nearly all of whom own land in Marin County along the line of the proposed railway or in the vicinity thereof. These persons subscribed for between one and one hundred shares each and the total subscriptions, as shown by the articles of incorporation, amounted at the time of incorporation to \$40,675.00. It appeared at the hearing that several subscribers who live in San Rafael, between the Union Depot and the tunnel to the north thereof, and who expected the line of railway to be constructed from the Union Depot to the tunnel, have withdrawn their subscriptions and other persons have refused to pay, so that the total number of subscriptions on which the Railway Company relies amounts to \$30,000.00. Ten per cent of these subscriptions have been paid and are now on deposit in various banks in Marin County and an additional twenty per cent has been called, of which a portion has been paid.

The Railway Company's line of railway, as described in its articles of incorporation, is as follows: Beginning at a point in Petaluma avenue, in the city of San Rafael, county of Marin, State of California, where said avenue would be crossed by the northeasterly prolongation of the northerly line of lot 49 of Chula Vista Terrace, as per map in the Marin County recorder's office, thence southerly along Petaluma avenue to Mission street, thence easterly along Mission street to Tamalpais avenue, thence southerly along Tamalpais avenue to Fourth street and thence westerly along Fourth street to the westerly corporate limits of the city of San Rafael; thence through the town of San Anselmo westerly along the San Rafael and Olema road to the intersection thereof with the county road leading from Red Hill to Ross Landing;

thence westerly and northwesterly, as the case may be, along the said San Rafael and Olema road to the intersection thereof with the westerly corporate limits of the town of San Anselmo; thence continuing westerly and northwesterly, as the case may be, along the San Rafael and Olema road to a point therein opposite Fairfax Manor, as per map of said Fairfax Manor now of record in the office of the Marin County recorder, and thence through Fairfax Manor to the county road.

And the said street railroad will also be built along the following routes: Beginning at the intersection of Fourth street and Tamalpais avenue, in San Rafael, California, and running along Tamalpais avenue to Second street; thence westerly along Second street to Petaluma avenue; thence northerly along Petaluma avenue to Fourth street, and also from the intersection of Petaluma avenue and Mission street in said city of San Rafael, southerly along Petaluma avenue to Fourth street.

The articles allege that the estimated length of this line of railway, with all its branches, aggregates six miles, and that the principal place of business is to be the city of San Rafael.

S. J. Norton, the principal promoter of this enterprise, has heretofore secured three franchises for street railways, one from the city of San Rafael, one from the town of San Anselmo and one from the county of Marin, as follows:

The city of San Rafael, by charter Ordinance No. 3, adopted on September 15, 1913, granted to S. J. Norton and his assigns, for the term of forty-nine years, a franchise for a single track street railroad, to be operated by electricity or such other improved mode of operation as may be authorized by law, except steam locomotives, third rail, overhead trolley or any kind of underground system over the route therein described, which includes the route over which it is now intended to build, together with certain branches which the Railway Company does not at the present intend to construct. The franchise is granted upon certain conditions, to several of which I shall now refer. The grantees are given no right to carry freight, with certain unimportant exceptions, unless the city council may hereafter permit such carriage. The cars are to be operated in each direction between the hours of 7.00 a. m. and 10.00 p. m. at intervals of not more than twenty-five minutes. The center line of the railway is to be laid along the center line of the streets and all street work must be done with the same kind of material and at the same time and in the same manner as the remaining portions of the street. The tracks are to be single track of standard gauge, to be laid flush with the surface of the streets, with a proviso that after five years, upon demand of the city council, the Railway Company must replace such "T" rails as it may have laid with standard grooved rails. Work on the railway is to commence within four months from the granting of the franchise and must be completed within one year thereafter, other-

wise the franchise is to be forfeited throughout such portions of any particular route as may not then be completed, unless the time for the completion of such particular route be extended by the city council. Single fares for one continuous trip in one continuous direction within the city shall not exceed five cents. The city of San Rafael reserves the right at any time after five years to purchase the franchise and all the property and equipment used in the operation of the street railway at an appraised valuation, made in the manner specified in the ordinance. As provided by the Broughton Act, the grantee of the franchise and his assigns must pay to the city of San Rafael annually during the life of the franchise, 2 per cent of the gross annual receipts arising from the operation of the railway, provided that no percentage need be paid during the first five years succeeding the date of the franchise. A copy of this ordinance is attached to the application and marked "Exhibit B."

The town of San Anselmo, by Ordinance No. 106, adopted on September 5, 1913, granted to S. J. Norton and assigns, for the term of forty-nine years, the right to construct a single track street railroad from the easterly to the westerly limits of the town over a route therein described, on terms largely identical with those contained in the San Rafael ordinance, with the exception that the San Anselmo ordinance contains certain additional requirements, such as that the grantee shall, when ordered by the board of trustees, install ten 2,000-candle power arc lights at points along the right of way designated by the board of trustees, which lights shall thereafter be maintained by the Railway Company; that no track shall be laid along or upon such bridges as may now or hereafter be constructed by the town of San Anselmo, and that no switch points, frogs or switch stands shall be permitted within a distance of twenty-five feet of any street termination or crossing; and that the purchase by the town of San Anselmo may be made at any time at an appraisal established as provided in the ordinance. A copy of this ordinance is attached to the application and marked "Exhibit C."

The county of Marin, by Ordinance No. 162, adopted on September 15, 1913, granted to S. J. Norton and assigns, the right to operate a single track street railroad over the remaining portion of applicant's proposed line of railway, from the westerly line of the corporate limits of the town of San Anselmo to a point in Fairfax opposite the northerly line of Fairfax Manor, on conditions practically identical with those specified in the San Rafael ordinance. A copy of this ordinance is attached to the application and marked "Exhibit D."

At the first hearing in this proceeding, held on October 16, 1913, the Railway Company presented an estimate of the cost of its proposed line of railway, totaling the sum of \$78,106.06. This estimate provided for 40-pound steel, which is manifestly too light, provided for only two

electric cars, and took no account of the necessary paving or bituminizing of the streets along or across the line of railway. Thereafter, at the adjourned hearing, which was held on November 3, 1913, the Railway Company presented a revised estimate, totalling \$97,379.92, which estimate is as follows:

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| 56-pound relay steel (subject to Hunt's inspection) ----- | \$3,000 00 |
| 352 pair angle bars at \$1.50 ----- | 528 00 |
| 7 kegs track bolts at \$7.00 ----- | 49 00 |
| 30 kegs of track spikes at \$5.10 ----- | 153 00 |
| 5,280 tie plates at \$.12 ----- | 634 00 |
| 2,640 redwood ties 6 inches by 8 inches by 8 feet at \$.60 ----- | 1,584 00 |
| Grading ----- | 1,400 00 |
| Ballasting ----- | 1,800 00 |
| Track laying ----- | 1,000 00 |

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|---|-------------------|
| Total cost of road per mile (average) ----- | \$10,148 00 |
| Number of miles ----- | 4.263 |
| | <hr/> \$43,260 92 |

| | |
|---|----------|
| Bituminizing 5,600 linear feet 8 feet wide, in San Rafael, at \$.14 per square foot ----- | 6,272 00 |
| Heading 5,600 linear feet with paving bricks on inside of tracks (40,000 bricks per mile at \$45 laid) ----- | 1,900 00 |
| 2 concrete culverts and 4 or 5 24-inch by 30-inch corrugated iron pipe culverts (San Anselmo) to cost not to exceed ----- | 1,500 00 |
| 650 feet of rails to be laid on Petaluma avenue, from Fourth street and Petaluma avenue to car barn site, at \$2.00 ----- | 1,300 00 |

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|--|-------------|
| Total cost of roadbed (4.263 miles) ----- | \$54,232 92 |
| Cost of 3 interurban type Beach storage battery cars (delivered in San Rafael) ----- | 25,500 00 |
| Cost of three franchises ----- | 747 00 |
| Estimated engineering costs ----- | 2,000 00 |
| Legal services ----- | 500 00 |
| Cost of generator and charging equipment (delivered and installed in car barn in San Rafael) ----- | 2,000 00 |
| Site for car barn ----- | 500 00 |
| Car barn ----- | 1,500 00 |
| Promotion stock to S. J. Norton ----- | \$2,500 00 |
| Promotion bonds to S. J. Norton ----- | 1,700 00 |
| Promotion cash to S. J. Norton ----- | 5,000 00 |

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| Total promotion fee to S. J. Norton ----- | 9,200 00 |
| Cost of three sidings at \$400.00 each ----- | 1,200 00 |

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| Total cost of road equipped for operation ----- | \$97,379 92 |
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The sum of \$747.00 for three franchises is secured as follows:

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| Advertising in various newspapers ----- | \$607 00 |
| Cash paid to San Anselmo ----- | 50 00 |
| Cash paid to San Rafael ----- | 25 00 |
| Cash paid to Marin County ----- | 25 00 |
| Premium on surety bond to San Rafael, San Anselmo and Marin County ----- | 40 00 |
| Total ----- | \$747 00 |

It will be noted that promotion fees are to be paid to S. J. Norton as follows :

| | |
|---------------------|------------|
| Capital stock ----- | \$2,500 00 |
| Bonds ----- | 1,700 00 |
| Cash ----- | 5,000 00 |
| <hr/> | |
| Total ----- | \$9,200 00 |

This total is to include all of Mr. Norton's services to date and the services which he is hereafter to perform in selling the Railway Company's stock and bonds and completing the project. It appeared at the hearing that Mr. Norton started work on this project in October, 1912. He is manager of an abstract company in San Rafael, but has given the larger portion of his time since October, 1912, to this contemplated line of railway. He personally solicited some 750 persons for subscription to stock and obtained the subscriptions of the persons whose names are attached to the articles of incorporation. He also prepared or secured the preparation of such plans and estimates as have been prepared in connection with this line of railway. In the fall of 1912 he applied for the three franchises hereinbefore referred to, and subsequent to that time he made efforts to secure the franchises, until in September of this year he was finally successful. Mr. Norton's proposed fees for promotion include such services as he will hereafter perform in disposing of the Railway Company's stock and bonds. The stock and bonds are all to be sold at par, and the promotion fees hereinbefore referred to include in part what might properly be termed a commission on the sale of the stock and the bonds. Under all the circumstances of this case, I am of the opinion that the fee which is to be paid to Mr. Norton is a reasonable one. A promoter is certainly entitled to a reward for his services in the organization and promotion of a public utility corporation if such enterprise is completed and is of value to the community. On the other hand, it does not seem reasonable that a promoter should receive his fee before he has demonstrated that his enterprise is successful and is of public service. Consequently, I shall recommend that the stock and the bonds and \$2,500.00 in cash out of the total of \$5,000.00 in cash which the directors have agreed to pay to Mr. Norton, shall be paid to him when the \$50,000.00 hereinafter referred to has been deposited, and that the remaining sum of \$2,500.00 in cash shall be paid to Mr. Norton when the enterprise has been completed, as hereinafter provided.

At the adjourned hearing, Mr. Norton presented a revised estimate of daily operating expenses, as follows:

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| 6 platform men, 8 hours per day each at 35 cents per hour----- | \$16 80 |
| Electric power at 14 cents per kilowatt hour for 16 trips per car per day, based on a round trip of 8.526 miles ----- | 5 11 |
| Manager at \$125.00 per month ----- | 4 16 |
| Track walker, a laborer, per day ----- | 2 50 |
| Bond interest on \$45,000.00 at 6 per cent ----- | 7 40 |
| Maintenance and depreciation on 3 cars at 1½ cents per car mile ----- | 6 12 |
| Depreciation on ties and rails, 5 per cent ----- | 62 |
| Total ----- | \$42 71 |

The foregoing total does not include an item for sinking fund. The officers of the Railway Company intend to provide for a sinking fund to commence after the road has been in operation for five years. No deed of trust or mortgage has as yet been executed. The order in this proceeding will provide that before the bonds may be issued a deed of trust, or mortgage, shall first have been presented to, and approved by, this Commission.

The railroad company intends to charge 5 cents for a one-way trip over any portion of its line of railway in one direction. On the basis of an expense of \$42.71 per day, and a five cent fare, it is evident that the Railway Company must haul at least 850 one-way paying passengers each day in order to make its expenses. The most serious question in this application is whether it will be possible for the Railway Company to develop so large a business and, if not, how the deficit from time to time can be taken care of. The testimony at the hearing shows that the population in the entire territory to be served does not exceed 9,000 people, roughly divided, as follows:

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|-------------------|-------|
| San Rafael ----- | 5,934 |
| San Anselmo ----- | 2,640 |
| Fairfax ----- | 400 |

Almost one tenth of this number of people will have to ride one way each day on this line of railway before the Railway Company's expenses can be met.

Mr. Norton testified that one of the chief reasons for the proposed line of railway was the present service of the Northwestern Pacific Railroad Company in this territory. This company at present operates a suburban electric service between San Rafael, San Anselmo and Fairfax, as well as in other portions of Marin County. Witnesses at the hearing testified that this service was unsatisfactory, partly because of the infrequency of the trains, partly because of the failure to make close connections at San Anselmo, partly because of the rate and partly because the railway does not reach new territory which it is now desired to build up. During the middle of the day, the Northwestern Pacific's

service is hourly; during the morning and afternoon hours, it is half hourly; and at night a few trains run at periods considerably in excess of an hour. The people traveling from San Rafael to Fairfax must generally wait eight minutes at San Anselmo before they can continue on their journey to Fairfax. At night, it sometimes takes an hour and five minutes to ride from San Rafael to Fairfax. The fare between any two contiguous stations on the Northwestern Pacific between San Rafael and Fairfax via San Anselmo is ten cents for a single trip. The round trip fare between San Rafael and San Anselmo is fifteen cents and between San Rafael and Fairfax twenty-five cents. The one-way fare between San Rafael and Fairfax is fifteen cents and the round trip fare between San Anselmo and Fairfax is also fifteen cents. Referring to the point that the Northwestern Pacific does not serve certain territory which it is now desired to build up, the witnesses testified that the territory close to the line of the Northwestern Pacific Railroad Company at its stations has been quite generally purchased and settled upon, and that it is now desired to tap outlying territory, which is located at some distance from the stations of the Northwestern Pacific.

At the original hearing, the Railway Company introduced an estimate of the number of passengers who would use its cars each day, this estimate being 770 average week day fares one way. Of this number, 410 fares were to be collected from persons traveling from San Francisco, San Rafael, San Anselmo and Fairfax who might use this line for "recreation and sight-seeing" each day.

At the adjourned hearing, the Railway Company presented a revised estimate, as follows:

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| 25 persons residing south of Fourth and west of Marin streets in San Rafael, who would use the cars every work day in the week----- | 50 |
| 20 persons residing in the west end of San Rafael north of Fourth street, who would use cars every day in the week ----- | 40 |
| 75 San Francisco visitors to San Rafael, San Anselmo and Fairfax, who would make the round trip for sight-seeing ----- | 150 |
| 75 San Rafael people, who would make the round trip for recreation and sight-seeing ----- | 150 |
| 45 San Anselmo people, who would make the round trip for recreation and sight-seeing ----- | 90 |
| 20 Fairfax people, who would make the round trip for recreation and sight-seeing ----- | 40 |
| Real estate agents' customers, and others ----- | 100 |
| Persons traveling between San Rafael, San Anselmo and Fairfax on business ----- | 528 |
| Total ----- | 1,148 |

In explanation of the large number of local people who are counted on to use this line each day for recreation and sight-seeing, Mr. Norton testified that a large number of people in these communities have nothing else to do, and that they would welcome the opportunity of

taking a street car ride for recreation and sight-seeing. The estimate of 528 people using the line each day for business purposes between San Rafael, San Anselmo and Fairfax is the result of observations made by Mr. Norton concerning the traffic which moved over the line of the Northwestern Pacific Railroad Company between these points on October 22d, 28th and 29th of this year. Mr. Norton testified that an average of 358 people actually traveled during the morning and afternoon hours of these days, that 70 more should be added to represent the middle of the day traffic and that 100 more should be added to represent the San Anselmo and Fairfax traffic, making a total of 528. He estimates that all these people would use the street car line, if the same were in operation.

While Mr. Norton testified that, in his opinion, enough passengers would use this line of railway to meet the expenses, several other witnesses frankly stated that it was their opinion that the line would not pay, certainly at first. In view of the large number of passengers which the line would have to convey each day to meet its expenses, and of the relatively very heavy traffic which would be represented by the number of passengers so needed, I think it reasonable to assume that at least for a number of years this line of railway will not pay expenses.

The officers of the Railway Company testified that in securing subscriptions they had uniformly pointed out to the intending subscriber that this line of railway would probably not pay expenses for a number of years to come, and also that it would probably be necessary to call upon the stockholders to pay assessments from time to time to meet the expenses. Responsible citizens of San Rafael testified that, in their opinion, the stockholders would meet these assessments, and that if some of them refused to pay, other persons would take their stock and pay the assessments, so as to keep up the railway. They testified that it was generally understood that this railway was to be constructed not for the purpose of declaring dividends for the stockholders, but of increasing the value of land and enhancing the prosperity of the communities affected. The president of the railway testified that it was to his interest as well as the interest of other merchants of San Rafael that this railway be constructed and operated, and that he would be willing personally to contribute \$100.00 per month, if necessary, to maintain the operation, and that he felt sure that other citizens would likewise be willing to do their part.

In view of the facts as developed at the hearing and herein set forth, the course to be pursued by this Commission on this application is not entirely free from doubt. While the Commission has repeatedly pointed out that it can not guarantee the success of a public utility to which it has given authority to issue stock or bonds, the Commission can not escape the conclusion that purchasers of public utility securities have

at times invested their money at least partly in reliance on this Commission's authorization, without making the independent investigation which they ought to make. The present project is, in important respects, an unusual one. It is primarily a people's project. Persons living in the communities affected or owning property there, have subscribed to the Railway Company's stock, not in the hope of securing dividends, but to increase the value of their property and to enhance the prosperity of their respective communities. Practically all the money to be derived from the sale both of the stock and of the bonds will have to be secured from people living in these communities, or owning property there, who fully understand the conditions. If these people are willing to build this line of railway and thereafter to pay to keep it in operation, if necessary, I am of the opinion that this Commission should be slow to say to them that they can not do so, simply because it is probable that for some time at least the railway will not pay expenses. Under all the circumstances which surround this project, I am of the opinion that this Commission's action should be confined to prescribing such conditions as may be necessary to safeguard reasonably the construction of the enterprise, to see to it that moneys are not expended until it seems reasonably certain that the enterprise can be completed, and to insure the sane and honest expenditure of such moneys as may be collected from the sale of stock and bonds.

The Railway Company's revised estimate of expenditures necessary to complete its line of railway, as hereinbefore stated, is \$97,379.92. While the Railway Company originally estimated that it would be necessary to sell capital stock of the par value of \$40,000.00 and bonds of the face value of \$40,000.00, it is clear that it will now be necessary to sell additional stock and bonds. In its estimate of current expenses, applicant has figured on a bond issue amounting to \$45,000.00. This would necessitate a stock issue, on a basis of the revised estimate, of about \$55,000.00, making a total of \$100,000.00. The balance between the \$100,000.00 and the \$97,379.92 would take care of unforeseen contingencies, or, if the road were actually constructed for less than \$100,000.00, the balance could be used, as far as it would go, to pay the probable deficits of the first few years. I shall recommend that the Railway Company be authorized to issue its bonds of the face value of \$45,000.00, and its capital stock of the par value of \$55,000.00, on the conditions hereinafter set forth and also specified in the order.

I shall now direct my attention to the possibility of securing the necessary funds.

As hereinbefore stated, applicant now has subscriptions to its capital stock which it considers to be good, amounting to \$30,000.00. An additional \$2,500.00 is to be paid to S. J. Norton for promotion. The Railway Company's witnesses were of the opinion that they would be able

to sell the remaining stock to persons living in the communities affected in Marin County.

Referring now to the bonds, the Railway Company intends to have the contractor take bonds of the face value of \$15,000.00, at par. If this arrangement is entered into, care will have to be taken with reference to the contract price, for the reason that it will probably be increased because of the partial payment in bonds. Mr. Norton testified that \$2,200.00 of bonds have been actually subscribed and that some \$3,000.00 of bonds will be used in payment of local items. He is to receive bonds of the face value of \$1,700.00 in part payment for promotion. The Railway Company is of the opinion that the remaining bonds can be disposed of to persons residing in the communities affected, or owning land therein. The Railway Company's witnesses thought that it would be impossible to secure from the purchasers of the bonds a waiver of the interest, say, during the first five years. Mr. Norton testified very frankly that if it should transpire, after securing the authorization of this Commission, that he and his associates were mistaken and that it was impossible to sell the amount of stock and bonds necessary to insure the successful completion and operation of the railway, the road would not be built. He stated that in his opinion it would be safe to go ahead only when all the stock and bonds, except bonds of the face value of \$10,000.00 and stock of the par value of \$10,000.00 had been sold. Mr. Norton also testified that, if necessary, he would waive a claim to the payment of \$5,000.00 in cash, as part of his promotion fee and would take bonds in lieu thereof.

I shall now address myself to the terms on which this Commission's consent in this case may be given. It is evident that some provision will have to be made so as to preclude the possibility of having a portion of the money collected and expended and of having it then be determined that the line can not be completed, with the result that the people who had invested their money would lose all of it without having a railroad. After mature consideration, I recommend to the Commission that it provide that construction work shall not start until 90 per cent of the bonds authorized and 90 per cent of the stock authorized have been subscribed by responsible parties and until the sum of \$50,000.00 in cash has been paid into a separate fund, or funds, in a bank, or banks, in Marin County, derived from the sale of stock and bonds, on the express condition that moneys paid into such fund or funds shall be returned to the persons who paid them, unless the total of \$50,000.00 is secured within a year from the date of this order, or within such further time as this Commission may allow. If the sum of \$50,000.00 is secured from the sale of stock and bonds within said time, I recommend that on securing a supplemental order from this Commission, specifying the details, the Railway Company be then authorized to proceed with the

construction of its line of railway. I recommend further that no expenditures shall be incurred by the railway company until said sum of \$50,000.00 in cash has been deposited, as aforesaid, unless the Commission shall in the mean time authorize the expenditure of small necessary sums. No stock or bonds should be issued by the Railway Company, except to Mr. Norton for promotion, until they have been fully paid for in cash. If the Commission should hereafter make a supplemental order authorizing the expenditure of moneys for construction, as hereinbefore specified, such order will provide for a strict accounting to this Commission for all moneys expended by the Railway Company and also that no contract over a sum specified shall be entered into by the Railway Company, without the prior consent of this Commission. If it becomes necessary to extend the time specified in the three franchises hereinbefore referred to, I assume that application for that purpose may be made to the city and county authorities.

I find that the moneys to be secured from the sale of the stock and bonds herein authorized to be issued are not in whole or in part chargeable to operating expenses or to income and submit herewith the following form of order:

ORDER.

S. J. Norton having applied for an order authorizing the assignment by him to San Rafael and San Anselmo Valley Railway Company of three certain franchises heretofore secured by said S. J. Norton from the city of San Rafael, the town of San Anselmo and the county of Marin, which said franchises are specifically referred to in the opinion which precedes this order, and San Rafael and San Anselmo Valley Railway Company having applied for a certificate that public convenience and necessity require the construction of a street railroad under said franchises and the exercise of rights and privileges thereunder, and San Rafael and San Anselmo Valley Railway Company having applied for an order authorizing the issue of its capital stock of the par value of \$100,000.00, and its bonds of the face value of \$100,000.00, to be secured by deed of trust or mortgage, covering all of the property of said company, and to bear interest at the rate of 6 per cent per annum, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the moneys to be secured from the sale of said stock and bonds are to be expended are not properly chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. S. J. Norton is hereby authorized to assign and transfer to San Rafael and San Anselmo Valley Railway Company all his rights under charter Ordinance No. 3 of the city of San Rafael, adopted on Sep-

tember 15, 1913, Ordinance No. 106 of the town of San Anselmo, adopted on September 5, 1913, and Ordinance No. 162 of the county of Marin, adopted on September 15, 1913. San Rafael and San Anselmo Valley Railway Company shall file with this Commission, and with each of the grantees of said franchises, respectively, certified copies of such assignment and transfer.

2. The Railroad Commission hereby finds that the present and future convenience and necessity require, or will require, the construction of the line of railway referred to in said ordinances and the exercise by San Rafael and San Anselmo Valley Railway Company of the rights and privileges conferred by said ordinances, on the condition that said San Rafael and San Anselmo Valley Railway Company complies with such conditions as this Commission may prescribe with reference to the financing of its line of railway.

3. San Rafael and San Anselmo Valley Railway Company is hereby authorized to issue its capital stock of the par value of \$55,000.00 and its bonds of the face value of \$45,000.00, said bonds to be secured by a deed of trust or mortgage on all of said company's property, and to bear interest at the rate of 6 per cent per annum on the following conditions, and not otherwise, to wit:

(a) San Rafael and San Anselmo Valley Railway Company shall issue its said capital stock and its said bonds so as to net said company not less than the par or face value thereof, except that the amount of stock, bonds and cash hereinafter specified may be paid to S. J. Norton for his promotion services, including the sale of the stock and bonds hereby authorized to be issued, and except that bonds may be issued to the contractor in part payment for his work if hereafter authorized by this Commission. No other stock or bonds shall be issued until they have been fully paid for in cash.

(b) The proceeds from the sale of said stock and bonds shall be used only for the purpose of constructing San Rafael and San Anselmo Valley Railway Company's line of railway in accordance with said company's revised estimate of approximate cost, totalling \$97,379.92, set out in full in the opinion which precedes this order, to which opinion reference is hereby made.

When the sum of \$50,000.00 hereinafter referred to shall have been deposited, the company may issue to S. J. Norton for his promotion services its capital stock of the par value of \$2,500.00, its bonds of the face value of \$1,700.00, and the amount of \$2,500.00 in cash. When the line of railway has been entirely completed and operation has commenced, the company may pay to Mr. Norton the remaining sum of \$2,500.00 in cash for promotion services.

(c) San Rafael and San Anselmo Valley Railway Company shall not commence construction work until 90 per cent of the capital stock hereby

authorized and 90 per cent of the bonds hereby authorized have been subscribed for by responsible parties and until this Commission has issued its supplemental order permitting such construction work.

(d) No expenditures chargeable to San Rafael and San Anselmo Valley Railway Company shall be incurred, unless this Commission's prior authorization therefor has first been secured.

(e) All moneys secured from the sale of stock and bonds shall be deposited by San Rafael and San Anselmo Valley Railway Company in a bank, or banks, in Marin County, California, as trust funds, on the express condition that if the total sum of \$50,000.00 shall not be so deposited in all of said banks within one year from the date of this order, or such further time as the Railroad Commission may grant, said moneys shall be repaid to the persons who paid them, either in toto, or diminished by their ratable proportions of such small expenditures as the Railroad Commission in the mean time may have authorized. If 90 per cent of the capital stock and 90 per cent of the bonds hereby authorized have been subscribed by responsible parties and said sum of \$50,000.00 in cash deposited within one year, or such further time as the Railroad Commission may have granted, San Rafael and San Anselmo Valley Railway Company may then apply to the Railroad Commission for its supplemental order authorizing the expenditure of said moneys for construction and the use for that purpose of the additional moneys which may thereafter be paid on subscriptions for stock and bonds. The supplemental order, in that event, will provide for the accounting to the Railroad Commission of all moneys expended by the Railway Company and also that no contract of an amount to be specified shall be entered into by the Railway Company without the prior consent of the Railroad Commission.

(f) San Rafael and San Anselmo Valley Railway Company shall keep separate, accurate and true accounts showing the receipt and deposit of all funds secured in payment for or on subscriptions to the stock and bonds hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, showing the receipt and deposit of all such moneys, the stock and bonds issued during the preceding month and the terms and conditions of the issue, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(g) The authority hereby given shall not become effective with reference to the bonds until San Rafael and San Anselmo Valley Railway Company shall first have presented to the Railroad Commission and secured the approval of the Railroad Commission to a deed of trust or mortgage securing the payment of said bonds.

(h) The authority hereby granted shall not become effective with reference to the bonds authorized to be issued until the fee prescribed by section 57 of the Public Utilities Act, as amended, has been paid.

(i) The authority hereby given to issue stock and bonds shall apply only to stock and bonds issued on or before the 1st day of December, 1914. If it is determined that all of such stock and bonds can not be disposed of within such time, application may be made to the Railroad Commission for an extension of time.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of November, 1913.

DECISION No. 1076.

IN THE MATTER OF THE APPLICATION OF INDIO LIGHT,
WATER AND ICE COMPANY FOR PERMISSION TO SELL
ITS WATER UTILITY PLANT.

Application No. 774.

Decided November 11, 1913.

Applicant authorized to sell all of its property devoted to water utility business to H. E. Gard, subject to certain conditions.

H. E. Gard, for Applicant and *in propria persona*.

Raymond Best, for The Riverside Abstract Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application on the part of the Indio Light, Water and Ice Company to convey to The Riverside Abstract Company, in trust for H. E. Gard, applicant's water utility plant, located at Indio, Riverside County, California. It was the intention of the applicant to convey to the abstract company all of its property, including both the water utility property and certain lots not necessary in its water business, located in the town of Indio, to be held in trust for H. E. Gard on the condition that when Mr. Gard should have paid the indebtedness of the applicant, the abstract company would then convey to him such property as it might still have on hand, including the water utility property. In pursuance of this arrangement, the applicant on July 3,

1913, executed its deed conveying all its property to the abstract company. On July 24, 1913, the abstract company thereafter executed its declaration of trust, declaring among other things, that when the debts of the applicant have been paid or secured by H. E. Gard to the satisfaction of the trustee, the abstract company will convey to Gard the title to all property and appurtenances connected with the water system and such other property as may not have been sold. As this Commission's consent was not secured prior to the execution of the deed from the applicant to the abstract company, as provided by section 51 of the Public Utilities Act, the deed is void in so far as affects the water utility property. The evidence in this proceeding shows that the deed was executed in ignorance of the provisions of section 51 of the act and with no intention to violate said act.

The Indio Light, Water and Ice Company was incorporated in December, 1904, for the purposes, among others, of conducting an electric, gas and water utility business and of conducting an ice and storage business, and also of buying and selling land. The company thereafter erected an ice and storage plant at the cost of some \$5,000.00 for the building and \$10,000.00 for machinery, all of which was burned several years ago. Immediately prior to July, 1913, the company owned and operated a water plant, supplying water to some fifty houses in Indio, and also certain town lots which were being sold from time to time. The company's property was mortgaged to secure the payment of a note, on which note some \$6,050.00 was due on the day of the hearing. The company was also indebted in the following amounts:

| | |
|--|-------------------|
| H. E. Gard for cash advanced..... | \$300 00 |
| For unpaid salary at \$50 per month..... | 641 34 |
| To W. F. Everett for cash advanced..... | 235 22 |
| To Marshall Lewis for cash advanced..... | 1,000 00 |
| For unpaid salary..... | 1,831 00 |
| Total | \$4,307 65 |

H. E. Gard is the only stockholder of financial responsibility remaining in Indio. He endorsed the note hereinbefore referred to and has agreed to pay the other debts of the applicant. The applicant consequently agreed that the property should be conveyed to him as soon as the indebtedness should have been paid. It was in the execution of this plan that the deed hereinbefore referred to was executed by applicant to the abstract company.

Mr. Gard testified that the value of the applicant's property was not in excess of \$8,000.00 or \$10,000.00. He stated that certain additions, improvements and repairs, such as a new pump, a larger storage tank and an extension of the mains would soon have to be made to the water plant, but that he was a minority stockholder in the applicant and that he was unwilling to make the improvements unless the property

were conveyed to him. Mr. Gard resides in Indio and conducts a general merchandise store there.

The annual report of the Indio Light, Water and Ice Company for the year ending December 31, 1912, on file with this Commission, shows total water rents amounting to \$868.60 and operating expenses amounting to \$415.04. These sums do not include interest on the company's obligations or superintendence.

Applicant desires to provide for the payment of its debts, to convey its water utility property to Mr. Gard when the debts have been paid, and to disincorporate. At the hearing, the Commission suggested to the parties that a number of complications might ensue if it were desired to convey the utility property to the abstract company. That company has no public utility powers and if the company desired thereafter to convey the property to Mr. Gard, it would be necessary to secure an order of this Commission, under the provisions of section 51 of the Public Utilities Act, authorizing it so to do. The Commission suggested the possibility of having the water utility property conveyed directly to Mr. Gard, and this course of procedure was satisfactory to the parties at the hearing. The Commission is now in receipt of a letter from the security Savings Bank of Los Angeles, the mortgagee, agreeing to this procedure and consented to by the applicant and Mr. Gard.

I recommend that authority be given to Indio Light, Water and Ice Company to convey its water utility property directly to H. E. Gard. Mr. Gard will thereupon become a public utility and will be under the obligation of filing his rates with this Commission and of rendering an annual report of his water utility business. While the record title to the water utility property is still in the Indio Light, Water and Ice Company, notwithstanding the purported conveyance thereof to The Riverside Abstract Company, this conveyance constitutes a cloud on the title. Consequently, before the Indio Light, Water and Ice Company conveys its water utility property to Gard, it should secure from the Abstract Company a quitclaim deed, quitclaiming the water utility property, which should be specifically described in the deed and concerning which the recital should appear that it constitutes all that portion of the property of the Indio Light, Water and Ice Company described in the deed to the abstract company which is devoted to the water utility business.

I recommend the following form of order:

ORDER.

Indio Light, Water and Ice Company having filed its application for authority to convey its water plant, located at Indio, California, to The Riverside Abstract Company, and a public hearing having been

held upon said application, and all parties having agreed that said application might be amended so as to request authority to convey said property to H. E. Gard, and the Commission finding that such conveyance would be reasonable.

It is hereby ordered that Indio Light, Water and Ice Company be and the same is hereby authorized to convey to H. E. Gard all of its property located at Indio, California, devoted to the water utility business, on the following conditions, and not otherwise, to wit:

1. Before making such conveyance, Indio Light, Water and Ice Company shall secure from The Riverside Abstract Company a quitclaim deed, conveying all that portion of the property described in deed from Indio Light, Water and Ice Company to The Riverside Abstract Company, dated July 3, 1913, which is devoted to the public utility water business, which property shall be specifically described in said deed and stated to be all the property so devoted.

2. Indio Light, Water and Ice Company shall file with this Commission a certified copy of such deed from The Riverside Abstract Company, and also of its deed to H. E. Gard.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of November, 1913

DECISION No. 1077.

IN THE MATTER OF THE APPLICATION OF THE TULARE
COUNTY POWER COMPANY TO EXECUTE A TRUST
DEED AND TO ISSUE CERTAIN PROMISSORY NOTES.

Application No. 736.

Decided November 12, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER OF NOVEMBER 12, 1913.

LOVELAND, *Commissioner.*

It is hereby ordered that paragraph number (1) of the supplemental order of this Commission, dated October 8, 1913, in the above entitled matter, reading as follows:

“(1) To execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman

for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable February 1, 1914; \$25,000.00 being due and payable August 1, 1914, and the remainder of \$200,000.00 being due and payable February 1, 1915; all of said notes to be without interest save and except some portion of the \$50,000.00 considered interest, as set forth in the preceding opinion; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date,"

be amended to read as follows:

"(1) To execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman for a loan of \$200,000.00, \$25,000.00 of said amount being due and payable February 1, 1914; \$25,000.00 being due and payable August 1, 1914; and the remainder of \$200,000.00 being due and payable February 1, 1915; all of said notes to be without interest before maturity, save and except some portion of the \$50,000.00 considered interest, as set forth in the preceding opinion; and said notes to bear interest after maturity as set forth in the forms proposed for said notes, referred to in paragraph VII of the application herein, which said forms were presented to and filed with this Commission at the hearing of the application therein on the 15th day of September, 1913, and marked: 'Filed, Railroad Commission, State of California, Sept. 15, 1913, Charles R. Detrick, Sec.; App. No. 736, Ex. F'; and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman, or to trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date."

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of November, 1913.

DECISION No. 1078.

IN THE MATTER OF THE APPLICATION OF THE TULARE
COUNTY POWER COMPANY TO EXECUTE A TRUST
DEED AND TO ISSUE CERTAIN PROMISSORY NOTES.

Application No. 736.

Decided November 12, 1913.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Written request having been filed by the applicant in the above entitled matter that the supplemental order in the above entitled case issued by this Commission on November 10, 1913, amending a supplemental order of this Commission dated October 8, 1913, be set aside,

It is hereby ordered that the supplemental order of this Commission in the above entitled matter, dated November 10, 1913, amending a supplemental order of this Commission in the same matter, dated October 8, 1913, be set aside and held at naught.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of November, 1913.

DECISION No. 1079.

IN THE MATTER OF THE APPLICATION OF PERCY J.
COOKE TO SELL A CERTAIN WATER SYSTEM TO THE
TOWN OF COLUSA, CALIFORNIA.

Application No. 811.

Decided November 11, 1913.

Applicant authorized to sell to the town of Colusa for the sum of \$4,000.00 a certain water system situated in said town.

Alva A. King, for Applicant.

Thos. Rutledge, for Town of Colusa.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Percy J. Cooke having applied to this Commission for authority to sell to the town of Colusa, for the sum of \$4,000.00, a certain portion

of a water system situated in the town of Colusa, the property to be transferred being hereinafter described in greater detail, and a public hearing having been held upon this application, and the Commission being of the opinion that the application should be granted,

It is hereby ordered that Percy J. Cooke be, and he hereby is, authorized to sell to the town of Colusa for the sum of \$4,000.00 that portion of the water system now owned by him and situated in the town of Colusa, California, the property to be transferred being described in the contract of sale attached to the application in this proceeding and marked "Exhibit A," as follows:

Lot four (4) in block three (3) of the town of Colusa, as per map or plat thereof now on file and of record in the office of the county clerk of and for Colusa County, California. And also the wells on said lots, pumps, motors and transformers, all pipe gates and connections used with the same, and also all piping and mains laid in the town of Colusa, Goad's and Cooper's extensions to the town of Colusa. Also the house covering the wells and motors; excepting and reserving the steam pumps, boilers and everything used in connection with the same; also the wooden frame building now on said premises supporting the tanks.

By order of the Railroad Commission of the State of California.
Dated at San Francisco, California, this 11th day of November, 1913.

DECISION No. 1080.

IN THE MATTER OF THE SERVICE OF NORTHWESTERN
PACIFIC RAILROAD COMPANY BETWEEN BELVEDERE
AND SAN FRANCISCO.

Case No. 492.

Decided November 14, 1913.

Held, Problems involved in transportation between San Francisco and Belvedere analyzed, suggestions as to improvements made, but no order entered.

J. S. Hutchinson, city attorney, and *Arthur Page*, *J. H. Berghauscr*, *W. S. Heger*, and *L. S. Lathrop*, members of the board of trustees, for the Town of Belvedere.

Henry P. Dimond, for certain residents of Belvedere.

W. S. Palmer, general manager, for Northwestern Pacific Railroad Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an investigation on the Commission's own motion into the service of the Northwestern Pacific Railroad Company between Belvedere and San Francisco. Belvedere is a picturesque peninsula located in Marin County on the north side of San Francisco Bay. Transportation between Belvedere and San Francisco is maintained by means of the boats of the Northwestern Pacific Railroad Company, which operates a line of vessels from San Francisco to Sausalito, with a transfer thence to vessels plying between Sausalito and Tiburon, and stopping at Belvedere Landing. The return trip is made from Tiburon via Belvedere Landing to Sausalito and thence to San Francisco.

This investigation was instituted on receipt by the Commission of a letter dated October 29, 1913, from the town trustees of Belvedere, drawing the attention of this Commission to a breakdown of the "Marin," being the vessel which ordinarily plies between Tiburon and Sausalito via Belvedere Landing, and to the discomfort and inconvenience which has resulted to the people of Belvedere by reason thereof, and asking relief from this Commission.

The "Marin" is a gas engine launch, having a seating capacity of one hundred and forty to one hundred and fifty people and carrying some two hundred life preservers. While there is some evidence that at times when the vessel is carrying a large number of people, some of the passengers feel insecure on the "Marin," there is no evidence to show that she is actually unsafe, particularly if the passengers do not all insist on standing on the upper deck. Several weeks ago the "Marin" became disabled because of the breakage of her reversing gear and was out of commission for eighteen days. On the evening of October 25, 1913, while the vessel was heavily loaded with passengers from Tiburon and Belvedere to San Francisco, the vessel again broke down because of the breakage of her rudder. At the time the town authorities of Belvedere wrote their letter to the Commission, the vessel had not been replaced in service, but on the day of the hearing, November 7, 1913, she was again placed in commission, after having been laid up for thirteen days.

When the "Marin" is out of commission, persons desiring to travel to and from Belvedere must either use small launches between Belvedere and Sausalito, or go to Tiburon and there take the "Donahue," or such other of the larger boats of the Northwestern Pacific Railroad Company as can land at Tiburon but not at Belvedere. The launch "Colonial," which the Railroad Company has impressed into the service temporarily, seats some twenty people in the cabin and has room for twenty more standing outside. The launch is unsatisfactory, particu-

larly in rainy weather, and landings from the launch to floats at either end of its journey are unsafe, particularly for women. The railroad company itself does not seek to justify the launch as a permanent or satisfactory substitute for the "Marin." The alternative of taking the "Donahue" at Tiburon is not satisfactory to the people at Belvedere, largely because of the time consumed in traveling to and fro on shore between Belvedere and Tiburon. The evidence shows that the "Marin" has broken down at least four times during the last two years, and also that at times it must be laid off for overhauling and repairs. While one of the larger vessels of the railroad company can land at Tiburon in case the "Marin" is not available, such vessels can not land at Belvedere, for the reason that the town wharf does not extend far enough out.

The present direct service between Belvedere and Sausalito was instituted by the Northwestern Pacific Railroad Company several years ago as the result of an agreement between the railroad company and the people of Belvedere, by which agreement the Belvedere residents agreed to an increased rate for both commutation and single and round-trip tickets in return for a direct service, at least once each hour, between Belvedere and Sausalito. It was agreed at that time that the railroad company should furnish a ferryboat with a carrying capacity of say three hundred people, and that the people of Belvedere would provide a proper slip on the cove side of Belvedere available for such boat. Residents of Belvedere testified at the hearing that they considered the arrangements for the landing at Belvedere to be permanent and that they were well satisfied with the arrangements, except that under existing conditions, if the "Marin" breaks down, there is no satisfactory alternative service.

At the hearing the Commission made a careful investigation into the possibilities for relief, both temporary and permanent.

The officials of the Northwestern Pacific testified that they had now ordered duplicates, both of the reversing gear and of the rudder, so as to be in a position to replace these parts promptly in case they should again break. While the time during which the "Marin" must remain out of commission in case of such renewed breakage will thereby be shortened, no one accepts this as a solution of the problem arising from the failure of the Northwestern Pacific to have any vessel to take the place of the "Marin" on the run between Belvedere and Sausalito.

The Commission gave consideration to the possibility of securing some other vessel to take the place of the "Marin" in case the latter should again be disabled or be out of commission for repairs or overhauling. The officers of the Northwestern Pacific testified that they had made diligent search for such a substitute on each of the last two occasions on which the "Marin" was out of commission, but that they

had been unable to find any vessel better than the small launch "Colonial," hereinbefore referred to. While several suggestions were made at the hearing with reference to boats which might have been secured, the Commission is satisfied from the testimony of the officials of the Northwestern Pacific that none of these vessels would be a feasible substitute.

The Commission also gave consideration to the possibility of a purchase by the Northwestern Pacific of a new boat as large as the "Marin" or possibly somewhat larger. Testimony shows that such a vessel would cost between \$10,000.00 and \$20,000.00, and that if such vessel were purchased, it could not be used on any other run on the Northwestern Pacific, for the reason that it would be too small for any other run. In other words, if such vessel were purchased it could be used simply as a substitute for the "Marin" to accommodate the people of Belvedere. The records of the Northwestern Pacific show that during the month of August, 1913, the number of daily passengers handled on the "Marin" between Belvedere and Sausalito varied from 129 to 216, that the average per trip varied from 9 to 14, the maximum number of passengers was 58, and that on many trips there were no passengers at all. During the same month the total number of passengers handled on the "Marin," including both the Tiburon and Belvedere passengers, varied from 395 to 614, and the average per trip from 27 to 38, with a maximum of 112 passengers per trip and a minimum on three trips during the month of no passengers at all. The records of the railroad company for the first twenty-four days of October show that the total number of passengers from Belvedere to Sausalito varied from a total of 96 to 140 per day, with an average of between 6 and 10 per trip, and a maximum of 51 passengers and a minimum on fourteen days of the month of no passengers. During the same month, the entire number of passengers carried per day by the "Marin" from both Tiburon and Belvedere to Sausalito varied from 328 to 561, with an average per trip of from 19 to 37, and a maximum of 101 per trip and a minimum on three days of no passengers. The records for this month show that of the total number of passengers handled on the "Marin," 31 per cent were Belvedere passengers and 69 per cent Tiburon passengers. I am convinced that the travel between Belvedere and Sausalito is not sufficient to justify an order directing the Northwestern Pacific Railroad Company to buy a new boat, particularly if there is any other feasible method of giving relief.

The Commission then directed its attention to a permanent solution of Belvedere's transportation problem. Two possible solutions were presented: (1) the dredging by the town of Belvedere of a channel from the bay to a point on the neck of land between Belvedere and Corinthian Island and the erection of a wharf or pier at said point,

and (2) the extension of the present town wharf at Belvedere Landing, so as to enable vessels of the size of the "Donahue" to land there.

The testimony shows that the residents of Belvedere realize that one of these alternatives must be adopted as the permanent solution of their transportation problem, but that they are apparently uncertain which alternative to adopt. Mr. W. S. Palmer, general manager of the Northwestern Pacific Railroad Company, testified that his railroad would prefer the first alternative, but that if this course were pursued, his company would expect to discontinue the service both to Tiburon and to Belvedere Landing, and to land its boats thereafter only at the head of the cove. That such a course would meet with strenuous opposition from the residents of Tiburon and of the growing community to the east thereof, is clear. The certainty of such opposition was shown by several witnesses from these localities, who appeared at the hearing and testified that they would be greatly inconvenienced by the discontinuance of the service to Tiburon and that they and their neighbors would protest strongly if such a plan were contemplated. It is likewise probable that people living near the present landing at the town wharf would object, for the reason that they would then have to walk much farther to and from their homes. It would not be feasible to stop both at such new wharf and at Tiburon, for the reason that if this were done it would be impossible for the Northwestern Pacific to maintain its schedule.

Finally, the Commission considered the plan of extending the present town wharf for some 75 feet, so as to provide a landing alongside the wharf for the "Marin" and a landing in a slip for vessels of a larger size, such as the "Donahue." Mr. W. S. Palmer testified that his company was considering the possibility of taking the machinery of the "Donahue," which is comparatively new, and placing it in a new hull of about the same size as that of the "Donahue." If the town wharf were extended, as hereinbefore indicated, the "Marin" could make the run during ordinary times, when not disabled or laid up for repairs, and at other times, a larger boat could make the run, landing directly at the new wharf. If, for any reason, the "Marin" could not make the run, it would be possible for the northwestern Pacific to substitute one of their larger boats, continuing the direct service between Belvedere and Sausalito, except in the roughest weather, without being put to the large expense of securing a new vessel to be used only as a substitute for the "Marin."

Mr. Palmer testified that his company estimated that the necessary additions to the town wharf would cost some \$7,100.00. The present wharf belongs to the municipality, and it seems desirable that the extension thereof should also belong to Belvedere. While Mr. Palmer stated that his company would not desire to pay the entire cost of the

extension, for the reason that it would not have any ownership therein, his company would nevertheless be willing to furnish the labor, machinery and the pile drivers if the town would supply the materials. If the extension were built the town would certainly have the right to charge the Northwestern Pacific a reasonable rental for the wharf. The reasonable value of the labor, machinery and pile drivers supplied by the Northwestern Pacific might be considered as so much advance rent, or some other equitable arrangement for the rent of the wharf and the repair thereof by the Northwestern Pacific could easily be made. The present means of access to the town wharf is not satisfactory if the wharf is to be extended and used as hereinbefore indicated. The access now consists of a trail along the hillside. Invalids and old people do not like to use the trail, and it is not adequate for the transportation of baggage, freight or express matter. The town attorney stated that the town had brought condemnation proceedings to condemn a strip of land from the town wharf to the head of the cove near the old hotel, and that it is probable that the amount to be paid will be ascertained by arbitration. If this is done, a boulevard could be built along the shore, so as to give ready access to the wharf. It was suggested at the hearing that the town could then save \$1,200.00 which it uses each year to subsidize an omnibus to run between Belvedere and Tiburon, and that it could use this sum to pay the interest and eventually to help pay the principal on the bonds necessary to build the boulevard. If this arrangement were made, the town of Belvedere would then have a permanent and satisfactory solution of its transportation problem. The uncertainty of the ultimate solution of this problem has undoubtedly acted to the detriment of the people of Belvedere. Its permanent solution would unquestionably be of great advantage to them.

The Commission will render no formal order in this proceeding. A full opportunity has been given for the interchange of views between the people of Belvedere and the Northwestern Pacific Railroad Company, and we believe that the parties have now come to a practical agreement with reference to a permanent solution of this problem. We hope that the people of Belvedere will be able to unite on a feasible permanent solution and that they will then take up the matter actively with the railroad company. Mr. Palmer stated that his company would meet the people at least halfway. Under these circumstances, it ought to be possible before long to settle Belvedere's transportation problem. If the Commission can hereafter be of assistance in working out the final plan, we stand ready to be of service to both parties.

The foregoing opinion is hereby approved and ordered filed as the opinion of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of November, 1913.

DECISION No. 1081.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS OF THE FACE VALUE OF SIX HUNDRED AND THIRTY-NINE THOUSAND DOLLARS.

Application No. 590.

Decided November 14, 1913.

Supplemental order authorizing applicant to issue additional bonds of the face value of \$41,000.00, proceeds to be used for capital expenditures incurred during the month of October, 1913.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is a supplemental application for authority to issue bonds of the face value of \$41,000.00.

On June 30, 1913, this Commission rendered its opinion and order in the above entitled proceeding, authorizing applicant to issue certain bonds, including bonds of the face value of \$459,000.00, on expenditures to be incurred during the year 1913. The present supplemental application is filed for the purpose of securing this Commission's authorization for the issue of \$41,000.00, face value, of said bonds for capital expenditures incurred during the month of October, 1913.

A summary of the estimated expenditures during the year 1913, subsequent to September 30, 1913, of the actual expenditures incurred during October, 1913, and of the balance to be expended is attached to the application, and reads as follows:

SUMMARY.

| | Balance to be expended as of September 30, 1913 | Expenditures in October, 1913 | Balance to be expended |
|---|--|-------------------------------------|---------------------------|
| 1. Steam power plant equipment..... | \$49,442 46 | \$3,560 35 | \$45,882 11 |
| 2. Electric distribution system..... | 63,147 77 | 16,051 85 | 47,095 92 |
| 3. Gas plant building and general struc- tures | 2,200 00 | 1,372 18 | 827 82 |
| 4. Gas generators | 13,981 61 | 102 53 | 13,879 08 |
| 5. Purification appliances | 10,606 94 | 803 88 | 9,803 06 |
| 6. Water gas sets and accessories..... | 7,000 00 | | 7,000 00 |
| 7. Accessory equipment at works..... | 7,639 56 | 23,968 48 | *16,328 92 |
| 8. Gas distribution | 146,171 93 | 4,344 80 | 141,827 13 |
| 9. Gas services | 37,436 47 | 4,159 85 | 33,276 62 |
| 10. Gas meters | 1,474 55 | 1,757 85 | *283 30 |
| 11. Miscellaneous distribution equipment.... | 9,443 98 | 116 47 | 9,327 51 |
| 12. General structures | 536 26 | 20 47 | 515 79 |
| 13. General shop equipment..... | 3,430 96 | 106 55 | 3,324 41 |
| 14. Contingencies | 195 37 | | 195 37 |
| Totals | \$352,707 86 | \$56,365 26 | \$296,342 60 |

*These amounts are in excess of original estimates.

Under the provisions of applicant's trust deed or mortgage, it is entitled to receive from the trustees bonds of the face value of 75 per cent of proper capital expenditures. It is evident that the amount of bonds for which this Commission's authority is now requested, being bonds of the face value of \$41,000.00, is less than 75 per cent of the capital expenditures incurred during the month of October, 1913.

I find that the purposes for which expenditures were incurred during the month of October, 1913, come within the general purposes specified in this Commission's opinion and order dated June 30, 1913. While the amounts expended for accessory equipment at works and for gas meters have run over the amounts as originally estimated, these expenditures are proper capital expenditures and should be allowed.

Applicant alleges that it expects to be able to sell its bonds for not less than 85 per cent of their face value.

I recommend that this supplemental application be granted, and submit herewith the following form of order:

FIFTH SUPPLEMENTAL ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for the consent of the Commission to the issuance of bonds by said company of the face value of forty-one thousand dollars (\$41,000), said bonds to be included within the general authorization heretofore given by this Commission's order in the above entitled proceeding, dated June 30, 1913, said bonds to be payable on the first day of March, 1939, and to bear interest at the rate of five (5) per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all the property of the company; and the Commission finding that the moneys to be procured by the issue of said bonds are necessary to and reasonably required by said company for the discharge and refunding of obligations heretofore incurred for proper capital expenditures, and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego Consolidated Gas and Electric Company of forty-one thousand dollars (\$41,000), face value, of bonds of said company, bearing numbers 3997 to 4037, inclusive, maturing the first day of March, 1939, redeemable on March 1, 1914, or on any interest date thereafter, at par, accrued interest and a premium of five (5) per cent on the principal thereof, and to bear interest at five (5) per cent per annum, payable semiannually, under and in pursuance of the terms of the deed of trust or mortgage heretofore and on the first day of March, 1909, made and executed by

said San Diego Consolidated Gas and Electric Company to Harris Trust and Savings Bank and Los Angeles Trust Company, now known as the Los Angeles Trust and Savings Bank, as trustees, upon the conditions following and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said bonds hereby authorized so as to net said company not less than eighty-five (85) per cent of the face value of the principal thereof, besides interest accrued thereon.

2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds only for the purpose of discharging and refunding indebtedness incurred for capital expenditures made during the month of October, 1913, as those expenditures are set out in the opinion which precedes this order.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. San Diego Consolidated Gas and Electric Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustees under its said trust deed, on which statements or certificates it expects to receive from the trustees the bonds hereby authorized to be issued.

5. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the 31st day of December, 1914.

The foregoing fifth supplemental opinion and order are hereby approved and ordered filed as the fifth supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of November, 1913.

DECISION No. 1082.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR LEAVE TO CONTINUE TO CHARGE THE TOLL RATES IN EFFECT ON THE TENTH DAY OF OCTOBER, 1911, UNTIL THE FURTHER ORDER OF THE COMMISSION.

Application No. 2.

IN THE MATTER OF THE RATES, CHARGES, RULES AND REGULATIONS IN CONNECTION WITH THE INTERCHANGE OF TELEPHONE SERVICE OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY WITHIN THE STATE OF CALIFORNIA.

Case No. 407.

Decided November 14, 1913.

Held, Pacific Telephone and Telegraph Company ordered to put into effect by February 16, 1914, specified schedules of rates found by the Commission to be just and reasonable, these rates providing for a two-minute initial period.

Held, Thirty per cent instead of 15 per cent of toll revenues shall be apportioned to exchange accounts.

Held, Application of Pacific Telephone and Telegraph Company for permission to revise toll rate schedules on a basis of \$.005 per air line mile, plus a \$.05 terminal charge, initial period of one minute, 50 per cent overtime, denied.

E. S. Pillsbury and H. D. Pillsbury, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

On March 22, 1912, The Pacific Telephone and Telegraph Company filed with this Commission Application No. 2 for authority to continue in effect, until the further order of the Commission, its existing system of toll rates in this State. These rates, as admitted by the applicant, were largely in violation of section 24 (b) of the Public Utilities Act, reading as follows:

“No telephone or telegraph corporation subject to the provisions of this act shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls subject to the provisions of this act; but this shall not be construed as authorizing any

such telephone or telegraph corporation to charge and receive as great a compensation for a shorter as for a longer distance. Upon application to the commission, a telephone or telegraph corporation may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which such telephone or telegraph corporation may be relieved from the operation and requirements of this section."

On March 23, 1912, the Commission issued its order in said application, permitting the applicant to continue such toll charges as were in effect on that date for a period of thirty days, within which time applicant was directed to file with the Commission a schedule of rates removing the violations of the Public Utilities Act.

Thereafter, on April 23, 1912, The Pacific Telephone and Telegraph Company filed a further application in the same proceeding, reciting that, since the original application was filed with the Commission, a report had been submitted indicating the results of the company's study with reference to what it considered a proper basis upon which toll rates should be made. This application concludes as follows:

"Application is, therefore, made to the Commission to continue in effect Order No. 2 until such time as the new schedule can be put into effect as herein provided."

The Pacific Telephone and Telegraph Company proceeded on the theory that the most simple method to eliminate violations of section 24 (b) of the Public Utilities Act would be to establish all toll rates on an air line mileage, with certain arbitraries added for terminal service. In connection with this general theory, the Commission was asked to assume that toll rates constructed on the basis of certain assumptions which follow would produce just and reasonable rates.

The applicant's petition has been the subject of a most thorough and comprehensive investigation. We shall now state and comment on each of applicant's assumptions.

First—That all toll rates be based on air line mileage.

We know of no more scientific or just way of arriving at a basis for long distance telephone toll rates.

Second—That the basic rate be \$.005 per air line mile plus a \$.05 terminal charge.

A careful analysis of this assumption convinces us that so far as the rate of \$.005 per air line mile is concerned, it will produce in the aggregate at the present time a reasonable through toll rate for the telephone company without the addition of a \$.05 terminal charge. The evidence in this case shows conclusively that every element of expense, including investments of every nature upon which this pro-

posed arbitrary of \$.05 was to be added for terminal charges, is fully covered by the other allowances herein made.

Third—That one minute be accepted as the initial period upon which rates be based.

With this primary assumption we can not agree. An exhaustive investigation covering the northern, central and southern divisions of The Pacific Telephone and Telegraph Company shows the following results:

In the northern division a record of 24,576 toll conversations discloses an actual average talking period of 1.87 minutes. In the central division a record of 29,776 toll conversations discloses an actual average talking period of 1.87 minutes. In the southern division a record of 9,844 toll conversations discloses an actual talking period of 2.02 minutes. A combined record for the three divisions of 64,196 toll conversations shows an average of 1.89 minutes. From this record it must be apparent that a period of one minute is not sufficient to conclude the average telephone conversation.

Fourth—Five cent rate differentials.

We believe it entirely reasonable that rates should be constructed so as to yield revenue ending in even multiples of five cents.

Fifth—Ten-mile multiples, minimum charge ten cents.

We agree that the minimum charge for toll service should be ten cents, but can not agree that the rates should be constructed on the basis of ten-mile multiples always using the maximum haul. These rates should be constructed on the average haul in the multiple rather than the longest haul in the multiple.

Sixth—Rates for additional minute or fraction thereof to be computed at 50 per cent of the initial rate.

We can not agree with the assumption that 50 per cent of the initial rate as a rate for overtime based on a one-minute initial period is at all reasonable. Finding as we do that a one-minute initial period is an unreasonable restriction, we can not assume that 50 per cent of a rate based on this one minute period should be allowed for overtime. We believe that with a reasonable initial period which will be sufficient to cover the average conversation of a telephone user, an overtime charge of 50 per cent for each additional minute of such reasonable initial period may be tentatively established. This conclusion is based on the present revenue and expense of The Pacific Telephone and Telegraph Company and is subject to revision if the net earnings of that company increase or decrease in sufficient amount to require an alteration of the rate for overtime.

Seventh—No consideration to be given to a possible increase or decrease of traffic for any reason.

We are unable to understand upon what theory a public utility expects this Commission to foreclose itself from making subsequent rate revisions if conditions justify. One of the principal elements to be considered in rate making is the volume of business done by the particular utility, and it is manifestly absurd to say that if the business increases or decreases no consideration should be given to the same in rate making. If the business of a utility greatly increases without a corresponding increase in the investment, it naturally follows that a revision of rates would be in order; likewise, if for any reason the entire business of the utility decreases to such a point that at existing rates it is not securing a fair return, the rates would have to be increased. We would not have it understood that for every small increase or decrease of business a general rate revision should follow, but it is idle to say that should any substantial increase in business take place no consideration should be given it.

The schedule of rates which would result from an application of the telephone company's propositions above referred to would return it on the investment involved in these proceedings in excess of 14.15 per cent per annum, which return we find to be unreasonably high. It is, therefore, apparent that the Commission could not accept the proposal of The Pacific Telephone and Telegraph Company to establish rates based on the assumptions heretofore mentioned as a means of eliminating violations of the Public Utilities Act.

It became necessary, therefore, in order to prescribe a just and reasonable scale of rates, for the Commission to institute on its own motion a proceeding calling into question the rates, charges, rules and regulations of The Pacific Telephone and Telegraph Company covering its interexchange service or what is commonly known as long distance toll service. This the Commission proceeded to do, and on June 5, 1913, issued the necessary order calling into question the rates, charges, rules and regulations of The Pacific Telephone and Telegraph Company, to which proceeding was assigned Case No. 407.

The original application of the telephone company to amend its rates to conform to the requirements of the Public Utilities Act and the case instituted by the Commission on its own motion were consolidated and all the evidence and data of record in either case were made applicable to either.

The application and case involved in these proceedings have been the subject of a most exhaustive investigation. Many different schedules of rates have been worked out and thoroughly analyzed to determine the effect of such rates on the business of the telephone company. One of these schedules, which was considered by the Commission to offer

an equitable adjustment of the rates, was submitted to the telephone company in order that full justice might be done it. While the Commission was satisfied that the results of the calculations of its telephone department were accurate, it believed that every opportunity should be given the telephone company to point out any inconsistencies or inaccuracies which might appear to it. As a result of the telephone company's examination into the proposed schedule of the Commission, we quote the results obtained by that company as compared with the results obtained by the Commission:

First—The percentage of decrease of gross toll revenue as determined by the telephone company, 21.6 per cent.

As previously determined by the Commission and presented to the telephone company, 21.9 per cent.

Second—Amount of annual decrease in gross toll revenue to be anticipated as determined by the telephone company, \$522,600.18.

As previously determined by the Commission, \$526,362.25.

Third—Percentage of net return on toll line plant as at December 31, 1911, as determined by the telephone company, 9.49 per cent.

As previously determined by the Commission, 9.04 per cent, a difference of .45 of one per cent.

The above comparisons clearly indicate that the conclusions of the telephone company and this Commission, with reference to the effect on the revenue of The Pacific Telephone and Telegraph Company of the operation of the tentative scale of rates submitted to it for analysis by the Commission, are so close together that the difference is negligible. We are satisfied that rates which will yield returns as indicated above, which returns are conceded by the telephone company after an investigation to be correct, are such as can be considered just and reasonable.

The toll line plant involved in these proceedings represents an investment, according to figures submitted by the telephone company of \$7,497,738.86. For the purposes of these proceedings, after an investigation, the Commission accepted these figures rather than delay the proceedings until a complete valuation could be made of the property involved. It must be understood, as before stated, that, while we accept these figures as correct for the purposes of these proceedings, we do not accept the same as binding upon the Commission in any future proceedings.

We have accepted for the purposes of these proceedings statements furnished by the telephone company covering operating and overhead expenses, fixed charges, and depreciation. In accepting these figures, we have done so after an investigation which satisfied us that the same

might be accepted without prejudice to public interest, although, as in the case of the valuation, we do not consider these figures as binding upon the Commission in any future proceedings.

Having, with the reservations before mentioned, accepted the telephone company's valuations and various expenses, it will be seen that we have resolved in favor of that company those items which are usually subject to contention. It, therefore, remains to be seen whether the rates as proposed by the Commission and investigated by the telephone company produce revenue reasonable and adequate on the value of the property devoted to the public use. The telephone company has admitted that without any increase in business these rates will produce a net revenue of 9.49 per cent, which we believe, considering all of the circumstances and conditions, affords an adequate return.

It was argued by the counsel for the telephone company that, if the toll rates proposed by the Commission became effective, the earnings of the telephone company over its entire operations, inclusive of exchange and toll business, would be reduced to a final unreasonable result. It was argued that the municipal authorities of various cities and towns in the exercise of their regulative powers have in many cases forced the telephone company to accept an unreasonably low scale of rates for exchange service within such cities and towns. This Commission has in but few instances jurisdiction over the rates of utilities operating in municipal corporations, but it has jurisdiction over the long distance or toll business of the telephone company. It is our duty to prescribe just and reasonable rates for toll service and this we shall proceed to do. Counsel for the telephone company frankly admitted that he could not reasonably ask this Commission to maintain unreasonably high toll rates because other public authorities were maintaining unreasonably low exchange rates.

Should the telephone company be burdened with unreasonably low rates in certain municipalities, its duty is to secure a more equitable rate in such places. We find no good reason, if such conditions exist, for burdening patrons of long distance service in order to provide unreasonably low rates for persons confining themselves to exchange service.

The valuation submitted by the telephone company covering its toll plant did not include the value or proportionate value of the exchange plant used and useful in the transaction of toll business and of certain toll equipment located within the exchange. Obviously, the toll business could not be conducted without the use of the exchange facilities, and for this reason a proper segregation of toll revenues should be made in order to compensate the exchange plant for the tax levied on

it by toll service. The expense of operating such toll equipment as is located within the exchanges, has also been handled under exchange accounts.

It has been customary in the past to apportion 15 per cent of toll revenues to exchange accounts. We have made a most thorough investigation of the present method of apportionment and find that an allowance of 15 per cent to be credited to exchange accounts to handle these expenses of operation which are a part of the toll function, and the value of such exchange equipment used in connection with toll service is unreasonably low and should be increased to 30 per cent. The telephone company has agreed to this apportionment and the agreement is of record in these proceedings. With a just apportionment of toll revenues so as to provide a proper allowance to be credited to exchange accounts, we know of no reason why the toll and exchange business should not be kept separately and each class of service bear its just proportion of supporting the institution.

The proposal of the telephone company to adjust its rates to conform to the requirements of the Public Utilities Act would produce a net return in excess of 14.15 per cent, which we have heretofore found to be unreasonable, and for this reason the application of The Pacific Telephone and Telegraph Company to place in effect a schedule of rates based on its Application No. 2 must be denied.

We find as a fact from a full and careful consideration of all of the evidence introduced in these proceedings that the particular party and two-number telephone toll rates of The Pacific Telephone and Telegraph Company are excessive, unreasonable, unjust and in violation of section 24 (b) of the Public Utilities Act.

We find as a fact that the schedule of rates set out in Exhibit No. 1, attached hereto and made a part hereof, are just and reasonable rates to be charged by The Pacific Telephone and Telegraph Company for particular party and two-number long distance toll service within the State of California, computed on the basis as set out in the order.

ORDER.

The Pacific Telephone and Telegraph Company having on the twenty-third day of April, 1912, applied to this Commission for permission to revise and adjust its toll rate schedules to conform to section 24 (b) of the Public Utilities Act, said proposed adjustment to be on the basis of rates compiled on \$.005 per air line mile, plus a \$.05 terminal charge, initial period of one minute, 50 per cent overtime; and a regular hearing having been held, and basing its order on the findings of fact hereinbefore set forth in the opinion preceding this order,

It is hereby ordered that the said application be and the same hereby is denied.

And the Commission having on the fifth day of June, 1913, issued an order on its own initiative instituting an investigation into the rates, charges, rules and regulations of The Pacific Telephone and Telegraph Company, and public hearings having been held, and basing its order on the findings of fact set out in the opinion which precedes this order,

It is hereby ordered that The Pacific Telephone and Telegraph Company publish and file with this Commission, and put into effect on or before the sixteenth day of February, 1914, the schedule of rates shown in Exhibit No. 1 attached hereto and made a part hereof, which rates the Commission find to be just and reasonable rates to be charged by said telephone company for particular party and two-number toll service between points within the State of California.

And it is further ordered that in computing rates in accordance with this order The Pacific Telephone and Telegraph Company shall compute air-line distances from post route maps, the method of measurement to be as follows: If the distance between the points involved is 40 miles or less, the actual air-line mileage will be scaled from the post route maps. If the distance between the points involved is over 40 miles and not over 300 miles, as indicated by the block centers, the distance between the center of the blocks in which the points are located will be computed mathematically. If the distance between the block centers is over 300 miles, the distance between the centers of the sections in which the points are located will be computed mathematically. The words "block" and "section" as used herein refer to the divisions into which the territory involved will be divided, blocks being seven miles square and sections being thirty-five miles square, containing twenty-five blocks; blocks and squares to be appropriately numbered and designated for convenient listing and publication.

Dated at San Francisco, California, this 14th day of November, 1913.

EXHIBIT No. 1.

| Air-line mileage | | Initial rate, 2 minutes or less | Overtime rate, each additional minute or fraction thereof |
|----------------------------------|-------|---------------------------------------|--|
| Up to and including 19 miles | ----- | 10 cents | 5 cents |
| Over 19 up to and including 34 | ----- | 15 cents | 5 cents |
| Over 34 up to and including 44 | ----- | 20 cents | 10 cents |
| Over 44 up to and including 54 | ----- | 25 cents | 10 cents |
| Over 54 up to and including 64 | ----- | 30 cents | 15 cents |
| Over 64 up to and including 74 | ----- | 35 cents | 15 cents |
| Over 74 up to and including 84 | ----- | 40 cents | 20 cents |
| Over 84 up to and including 94 | ----- | 45 cents | 20 cents |
| Over 94 up to and including 104 | ----- | 50 cents | 25 cents |
| Over 104 up to and including 114 | ----- | 55 cents | 25 cents |
| Over 114 up to and including 124 | ----- | 60 cents | 30 cents |
| Over 124 up to and including 134 | ----- | 65 cents | 30 cents |
| Over 134 up to and including 144 | ----- | 70 cents | 35 cents |
| Over 144 up to and including 154 | ----- | 75 cents | 35 cents |
| Over 154 up to and including 164 | ----- | 80 cents | 40 cents |
| Over 164 up to and including 174 | ----- | 85 cents | 40 cents |
| Over 174 up to and including 184 | ----- | 90 cents | 45 cents |
| Over 184 up to and including 194 | ----- | 95 cents | 45 cents |
| Over 194 up to and including 204 | ----- | 100 cents | 50 cents |
| Over 204 up to and including 214 | ----- | 105 cents | 50 cents |
| Over 214 up to and including 224 | ----- | 110 cents | 55 cents |
| Over 224 up to and including 234 | ----- | 115 cents | 55 cents |
| Over 234 up to and including 244 | ----- | 120 cents | 60 cents |
| Over 244 up to and including 254 | ----- | 125 cents | 60 cents |
| Over 254 up to and including 264 | ----- | 130 cents | 65 cents |
| Over 264 up to and including 274 | ----- | 135 cents | 65 cents |
| Over 274 up to and including 284 | ----- | 140 cents | 70 cents |
| Over 284 up to and including 294 | ----- | 145 cents | 70 cents |
| Over 294 up to and including 304 | ----- | 150 cents | 75 cents |
| Over 304 up to and including 314 | ----- | 155 cents | 75 cents |
| Over 314 up to and including 324 | ----- | 160 cents | 80 cents |
| Over 324 up to and including 334 | ----- | 165 cents | 80 cents |
| Over 334 up to and including 344 | ----- | 170 cents | 85 cents |
| Over 344 up to and including 354 | ----- | 175 cents | 85 cents |
| Over 354 up to and including 364 | ----- | 180 cents | 90 cents |
| Over 364 up to and including 374 | ----- | 185 cents | 90 cents |
| Over 374 up to and including 384 | ----- | 190 cents | 95 cents |
| Over 384 up to and including 394 | ----- | 195 cents | 95 cents |
| Over 394 up to and including 404 | ----- | 200 cents | 100 cents |
| Over 404 up to and including 414 | ----- | 205 cents | 100 cents |
| Over 414 up to and including 424 | ----- | 210 cents | 105 cents |
| Over 424 up to and including 434 | ----- | 215 cents | 105 cents |
| Over 434 up to and including 444 | ----- | 220 cents | 110 cents |
| Over 444 up to and including 454 | ----- | 225 cents | 110 cents |
| Over 454 up to and including 464 | ----- | 230 cents | 115 cents |
| Over 464 up to and including 474 | ----- | 235 cents | 115 cents |
| Over 474 up to and including 484 | ----- | 240 cents | 120 cents |
| Over 484 up to and including 494 | ----- | 245 cents | 120 cents |
| Over 494 up to and including 504 | ----- | 250 cents | 125 cents |
| Over 504 up to and including 514 | ----- | 255 cents | 125 cents |
| Over 514 up to and including 524 | ----- | 260 cents | 130 cents |
| Over 524 up to and including 534 | ----- | 265 cents | 130 cents |
| Over 534 up to and including 544 | ----- | 270 cents | 135 cents |
| Over 544 up to and including 554 | ----- | 275 cents | 135 cents |
| Over 554 up to and including 564 | ----- | 280 cents | 140 cents |
| Over 564 up to and including 574 | ----- | 285 cents | 140 cents |
| Over 574 up to and including 584 | ----- | 290 cents | 145 cents |
| Over 584 up to and including 594 | ----- | 295 cents | 145 cents |

EXHIBIT No. 1—Continued.

| Air-line mileage | Initial rate, 2 minutes or less | Overtime rate, each additional minute or fraction thereof |
|---|---------------------------------------|--|
| Over 594 up to and including 604..... | 300 cents | 150 cents |
| Over 604 up to and including 614..... | 305 cents | 150 cents |
| Over 614 up to and including 624..... | 310 cents | 155 cents |
| Over 624 up to and including 634..... | 315 cents | 155 cents |
| Over 634 up to and including 644..... | 320 cents | 160 cents |
| Over 644 up to and including 654..... | 325 cents | 160 cents |
| Over 654 up to and including 664..... | 330 cents | 165 cents |
| Over 664 up to and including 674..... | 335 cents | 165 cents |
| Over 674 up to and including 684..... | 340 cents | 170 cents |
| Over 684 up to and including 694..... | 345 cents | 170 cents |
| Over 694 up to and including 704..... | 350 cents | 175 cents |
| Over 704 up to and including 714..... | 355 cents | 175 cents |
| Over 714 up to and including 724..... | 360 cents | 180 cents |
| Over 724 up to and including 734..... | 365 cents | 180 cents |
| Over 734 up to and including 744..... | 370 cents | 185 cents |
| Over 744 up to and including 754..... | 375 cents | 185 cents |
| Over 754 up to and including 764..... | 380 cents | 190 cents |
| Over 764 up to and including 774..... | 385 cents | 190 cents |
| Over 774 up to and including 784..... | 390 cents | 195 cents |
| Over 784 up to and including 794..... | 395 cents | 195 cents |
| Over 794 up to and including 804..... | 400 cents | 200 cents |
| Over 804 up to and including 814..... | 405 cents | 200 cents |
| Over 814 up to and including 824..... | 410 cents | 205 cents |
| Over 824 up to and including 834..... | 415 cents | 205 cents |
| Over 834 up to and including 844..... | 420 cents | 210 cents |
| Over 844 up to and including 854..... | 425 cents | 210 cents |
| Over 854 up to and including 864..... | 430 cents | 215 cents |
| Over 864 up to and including 874..... | 435 cents | 215 cents |
| Over 874 up to and including 884..... | 440 cents | 220 cents |
| Over 884 up to and including 894..... | 445 cents | 220 cents |
| Over 894 up to and including 904..... | 450 cents | 225 cents |
| Over 904 up to and including 914..... | 455 cents | 225 cents |
| Over 914 up to and including 924..... | 460 cents | 230 cents |
| Over 924 up to and including 934..... | 465 cents | 230 cents |
| Over 934 up to and including 944..... | 470 cents | 235 cents |
| Over 944 up to and including 954..... | 475 cents | 235 cents |
| Over 954 up to and including 964..... | 480 cents | 240 cents |
| Over 964 up to and including 974..... | 485 cents | 240 cents |
| Over 974 up to and including 984..... | 490 cents | 245 cents |
| Over 984 up to and including 994..... | 495 cents | 245 cents |
| Over 994 up to and including 1004..... | 500 cents | 250 cents |
| Over 1004 up to and including 1014..... | 505 cents | 250 cents |

Where optional two-number service is given, it will be for three minutes and take the standard particular party rate, and the particular party service will take a rate 5 cents higher.

All existing two-number rates and free exchange zone routes to remain as at present until acted on, after separate consideration, by the Commission.

DECISION No. 1083.

PACIFIC TELEPHONE HERALD COMPANY

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 474.

Decided November 18, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The Pacific Telephone Herald Company, a corporation, having made written request to this Commission that the complaint in this proceeding be dismissed,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 18th day of November, 1913.

DECISION No. 1084.

IN THE MATTER OF THE APPLICATION OF THE TULARE COUNTY POWER COMPANY TO EXECUTE A DEED OF TRUST AND TO ISSUE CERTAIN PROMISSORY NOTES.

Application No. 736.

Decided November 19, 1913.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This Commission in its order in the above entitled matter of October 6, 1913, and in its supplemental order in the same matter of October 8, 1913, and in its supplemental order of November 12, 1913, having authorized Tulare County Power Company to execute twenty-two promissory notes bearing date of September 18, 1913, aggregating \$250,000.00, to C. J. Wrightsman, and to secure said loan by a mortgage or deed of trust of all of its property to C. J. Wrightsman or to

trustees for said C. J. Wrightsman, copy of said mortgage or deed of trust to be filed with and approved by this Commission previous to its effective date; and a copy of said deed of trust having been filed with this Commission and marked Exhibit "K" in connection with the application herein,

It is hereby ordered that, under all of the circumstances in this case, said deed of trust be and it is hereby approved.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of November, 1913.

DECISION No. 1085.

IN THE MATTER OF THE APPLICATION OF LOS VERJELS
LAND AND WATER COMPANY FOR AUTHORITY TO
MORTGAGE ITS PROPERTY AND TO ISSUE STOCK.

Application No. 819.

Decided November 21, 1913.

Applicant authorized to mortgage a portion of its property as security for a note in the sum of \$25,000.00; to issue its capital stock of the par value of \$65,780.00 to be sold at par, proceeds to be used to refund said note and for the acquisition of additional land and extensions thereon.

V. T. McGillycuddy, for Applicant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application by Los Verjels Land and Water Company for authority to mortgage a portion of its property in Yuba County to the bank of Rideout, Smith & Company of Oroville, Butte County, as security for a note in the sum of \$25,000.00, and for authority to issue its stock in the sum of \$65,780.00.

Applicant owns in fee 3,230 acres of land in Yuba County, and has made partial payments upon other lands or has secured options thereon with the intention of increasing its holdings to 8,500 acres.

It has begun the construction of a reservoir to impound the waters of Dry Creek. Several miles of ditch have been constructed and additional ditches are projected for the purpose of distributing the water over the land.

Applicant proposes to sell off parcels of land for the culture of citrus and other fruits, but it states that it has not decided whether to engage

in the business of selling water or to sell water rights with the land and to convert its system into a mutual corporation.

Upon these grounds, applicant expresses doubt whether it is a public utility under the Public Utilities Act. It appears, however, that applicant's articles of incorporation provide that it may engage in the business of selling water, and I, therefore, am disposed to hold that the applicant must be considered at this time, for the purposes of this application, as a public utility. If applicant does not desire to do a public utility business, it should amend its articles of incorporation so as to eliminate the public utility powers.

It is the intention of the Los Verjels Land and Water Company to borrow \$25,000.00 from the bank of Rideout, Smith & Company of Oroville and to use the proceeds for the construction of a reinforced concrete dam 350 feet in length and 60 feet in height, at a total cost of \$18,000.00, and for the enlargement and improvement of 10 miles of ditch at a cost of \$7,000.00. The note to be given to the Rideout, Smith & Company bank will run for one year and carries an interest rate of 7 per cent.

The applicant has an authorized issue of 250,000 shares of stock of the par value of \$1.00 per share. It has issued \$184,220.00 of this stock and now asks for authority to sell at par the remaining \$65,780.00 of its stock, and to use the proceeds to be derived therefrom for the liquidation at maturity, or earlier if it so elect, of the \$25,000.00 note to be given the bank of Rideout, Smith & Company; and to devote the balance, in the sum of \$40,780.00, to the payment of installments upon lands now being acquired or under option, and for the extension and enlargement of the company's system of ditches.

The applicant is not able at this time to make a specific statement as to the payments it intends to make upon these lands. It will extend its system of ditches so as to irrigate the lands already acquired and to be acquired. The lands held by applicant lie southeast of Oroville and approximately 7 miles east of Honcut.

Of its holdings, the company will mortgage to the Rideout, Smith & Company bank, as security for the loan of \$25,000.00, 2,575 acres situated in the following sections in Yuba County: Section 34, township 18 north, range 6 east; section 35, township 18 north, range 6 east; section 6, township 17 north, range 5 east; section 1, township 17 north, range 5 east; section 12, township 17 north, range 5 east; section 2, township 17 north, range 5 east; section 11, township 17 north, range 5 east; section 14, township 17 north, range 5 east; section 13, township 17 north, range 5 east; section 24, township 17 north, range 5 east; section 18, township 17 north, range 6 east.

Applicant's dam will be of the multiple arch type and the specifications therefor have been duly filed.

This project is conceived for the purpose of converting lands now devoted to grazing purposes to intensive cultivation. It is proposed to plant citrus fruits, olives and figs.

I find that the money which the applicant desires to borrow and which it proposes to obtain from the sale of stock is reasonably required for the purposes to which it is to be devoted, and that it is not, in whole or in part, reasonably chargeable to operating expenses or to income.

I recommend that the application be granted and submit the following form of order:

ORDER.

Los Verjels Land and Water Company having applied to this Commission for authority to mortgage its property, consisting of 2,575 acres of land, situated in the following sections in Yuba County: Section 34, township 18 north, range 6 east; section 35, township 18 north, range 6 east; section 6, township 17 north, range 5 east; section 1, township 17 north, range 5 east; section 12, township 17 north, range 5 east; section 2, township 17 north, range 5 east; section 11, township 17 north, range 5 east; section 14, township 17 north, range 5 east; section 13, township 17 north, range 5 east; section 24, township 17 north, range 5 east; section 18, township 17 north, range 6 east, to the bank of Rideout, Smith & Company of Oroville, Butte County, to secure a loan in the sum of \$25,000.00 to be evidenced by a note for one year with interest at 7 per cent.

And application having been made also by said Los Verjels Land and Water Company for authority to issue 65,780 shares of stock of a par value of \$1.00 per share, and to use the proceeds to be derived from the sale thereof for the liquidation of the aforesaid note in the sum of \$25,000.00 and for the payment of additional installments upon lands now being acquired, and for the acquisition of lands under option, and for the extension and enlargement of applicant's system of irrigating ditches; and a hearing having been held, and it appearing that the money to be derived from said note and from the sale of said stock is reasonably required for the purposes to which it is to be devoted, and that said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered that Los Verjels Land and Water Company be and it is hereby granted authority to mortgage said 2,575 acres of land in Yuba County, heretofore described, to the bank of Rideout, Smith & Company of Oroville, Butte County, to secure a loan of \$25,000.00 to be evidenced by the note for one year with interest at 7 per cent.

And it is further ordered that Los Verjels Land and Water Company be given authority to issue 65,780 shares of its capital stock of the par value of \$1.00 per share.

The authority hereby given to said company to mortgage its property and to issue its stock is given upon the following conditions and not otherwise:

(1) Applicant shall devote the money to be realized on its note to the bank of Rideout, Smith & Company as follows:

| | |
|---|-------------|
| (a) For the construction of its dam on Dry Creek, in accordance with plans and specifications on file with this Commission----- | \$18,000 00 |
| (b) For the enlargement and improvement of its irrigating ditches and canals ----- | 7,000 00 |
| Total ----- | \$25,000 00 |

(2) Applicant shall sell its stock so as to net it not less than the par value thereof.

(3) Applicant shall devote the proceeds to be derived from the sale of said stock to the following purposes:

| | |
|---|-------------|
| (a) For the liquidation of its note to be given to the bank of Rideout, Smith & Company of Oroville, as heretofore referred to----- | \$25,000 00 |
| (b) For the acquisition of additional lands or for the payment of installments due upon lands now being acquired, or for additions to or extensions of its irrigating ditches, or for interest on said note---- | 40,780 00 |
| Total ----- | \$65,780 00 |

(4) Applicant shall file, within thirty days, a copy of its mortgage to the bank of Rideout, Smith & Company of Oroville to be given as security for said loan of \$25,000.00.

(5) Applicant shall, within thirty days, file with this Commission a copy of all contracts for the construction of its dam and for the construction of additional irrigating ditches.

(6) Los Verjels Land and Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued and of the proceeds from the note in the sum of \$25,000.00 to the bank of Rideout, Smith & Company of Oroville, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, the use and application of such moneys and the use and application of the moneys realized on its note to the bank of Rideout, Smith & Company of Oroville, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein given to issue stock shall apply to such stock as shall have been issued on or before November 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of November, 1913.

DECISION No. 1086.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF ONE HUNDRED THOUSAND DOLLARS AND PREFERRED STOCK OF THE PAR VALUE OF FIFTY THOUSAND DOLLARS.

Application No. 803.

Decided November 21, 1913.

Applicant authorized to issue its 6 per cent bonds of the face value of \$100,000.00 and its preferred stock of the par value of \$50,000.00; bonds to be sold at not less than 94 and stock at not less than 80, proceeds to be applied partly to the refunding of indebtedness heretofore incurred, and the balance for the acquisition of additional property and for extensions and improvements thereon.

Charles P. Cutten and L. H. Susman, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for authority to issue bonds of the face value of \$100,000.00 and preferred stock of the par value of \$50,000.00 for the purposes hereinafter specified.

Applicant was incorporated on November 23, 1911, and is engaged as a public utility in the distribution of electric energy and the transmission of telephone messages in the counties of Sonoma, Mendocino, Napa, and Lake.

Applicant's authorized capital stock consists of \$10,000,000.00, par value, divided into 40,000 shares of preferred stock and 60,000 shares of common stock, all of the par value of \$100.00 per share. Of this stock, preferred stock of the par value of \$300,000.00 and common stock of the par value of \$766,000.00 has been issued and is now outstanding.

Applicant has authorized a bonded indebtedness having a face value of \$5,000,000.00 of first mortgage, 6 per cent bonds, maturing on April 1, 1943, and secured by a deed of trust or mortgage dated April 1, 1913, to Mercantile Trust Company of San Francisco, as trustee. Of the bonds so authorized, bonds of the face value of \$350,000.00 have been heretofore issued and are now outstanding.

Applicant reports current obligations as of September 30, 1913, as follows:

| | |
|------------------------------------|--------------------|
| Vouchers payable | \$52,527 52 |
| Bills payable | 40,000 00 |
| Meter deposits | 474 95 |
| Contract deposits | 313 25 |
| Tolls due other companies | 996 46 |
| Telephone coupons unredeemed | 49 80 |
| Interest payable not due | 83 40 |
| Pay checks | 71 00 |
| Total | \$94,516 38 |

Applicant also reports income and expenses for the months of August, September, and October, 1913, as follows:

| | August | September | October |
|---|--------------------|--------------------|-------------------|
| <i>Income.</i> | | | |
| Telephone rentals | \$2,524 40 | \$2,520 05 | \$2,463 10 |
| Telephone tolls | 1,954 42 | 1,515 73 | 1,026 03 |
| Telephone commissions | 328 16 | 248 15 | 193 39 |
| Telephone miscellaneous | 1 46 | 1 46 | 1 46 |
| Electric earnings | 5,701 50 | 6,435 90 | 5,968 51 |
| Miscellaneous revenue | 72 50 | 179 47 | 49 93 |
| Totals | \$10,582 44 | \$10,900 76 | \$9,702 42 |
| <i>Expenses.</i> | | | |
| Current purchased | \$1,631 22 | \$1,680 38 | \$1,792 30 |
| Operating and maintenance | 1,686 08 | 1,756 14 | 1,585 32 |
| General expense | 511 88 | 677 65 | 713 85 |
| Commercial expense | 591 50 | 666 97 | 839 89 |
| Taxes and insurance | 461 82 | 458 67 | 486 42 |
| Miscellaneous deductions from surplus | 25 00 | 25 00 | 50 00 |
| Totals | \$4,937 50 | \$5,264 81 | \$5,467 78 |
| Profit before charging interest and depreciation | \$5,644 94 | \$5,635 95 | \$4,234 64 |

Applicant also reports total income and expenses for the year ending August 30, 1913, September 30, 1913, and October 31, 1913, as follows:

| | August | September | October |
|---|--------------------|--------------------|--------------------|
| Income | \$100,382 26 | \$102,352 17 | \$104,391 73 |
| Expenses | 55,669 22 | 56,208 74 | 56,937 41 |
| Profit before charging interest and depreciation | \$44,713 04 | \$46,143 43 | \$47,454 32 |

The statement does not show the amount chargeable for interest or charged off for depreciation.

In Application No. 498, to the opinion and order in which proceeding reference is hereby made for further details with reference to the operation and finances of applicant, the applicant filed an estimate of the cost of reproducing new its physical properties, including those acquired from Cloverdale Light and Power Company. The total of this estimate is \$580,094.00. While it is evident that this sum is in excess of the present value of the property, it is not necessary to establish a valuation in this case, for the reason that I am satisfied that when the bonds and preferred stock as to which this Commission's authority is now requested have been issued and their proceeds have been applied to the purposes hereinafter specified, there will be a sufficient margin between the value of the property and the outstanding obligations.

Applicant now applies for authority to issue bonds of the face value of \$100,000.00 and preferred stock of the par value of \$50,000.00. The bonds, as hereinbefore stated, are 6 per cent first mortgage bonds. They are to be sold at 94 per cent of their face value plus accrued interest. While no definite arrangements have been made to this end, applicant feels reasonably certain that it will be able to secure this price. The stock is 6 per cent cumulative preferred stock, and is to be sold for at least 80 per cent of its par value. Applicant has addressed letters to a large number of customers, and believes that it will be able to dispose of this stock to its present and contemplated consumers at 85 per cent of par. While it is to be hoped that this price can be realized, in order to give applicant some leeway, the order will authorize the sale at 80 per cent of par.

The proceeds from the sale of the stock and bonds are to be used partly for the discharge and refunding of obligations heretofore incurred by applicant for capital expenditures incurred in the acquisition of property between March 1, 1913, and October 1, 1913, and partly for the acquisition hereafter of further property. The expenditures which have heretofore been incurred for the property acquired between March 1 and October 1, 1913, are set forth in an exhibit which was filed by applicant at the hearing and marked "Exhibit A." This exhibit shows a total expenditure during said period, for capital expenditures, amounting to \$47,036.20, a portion of which was expended for telephone construction and a portion for electric construction. Applicant testified that of this amount the sum of \$15,225.70 has been paid from the proceeds of the bonds authorized by this Commission's order on Application No. 498, leaving a total of \$31,810.50 to be paid out of the proceeds of the stocks and bonds now to be issued. The expenditures hereafter to be incurred are to be incurred for items specified in Exhibit "J," attached to the petition in said Application No. 498, to which exhibit reference is hereby made. The exhibit shows contem-

plated expenditures for electric and telephone service in applicant's various districts, totaling as follows:

| | Electric | Telephone | Total |
|--|-------------|------------|--------------|
| Cloverdale district | \$78,000 00 | \$3,000 00 | \$81,000 00 |
| Russian River and Sonoma districts..... | 57,000 00 | 34,000 00 | 91,000 00 |
| Lake County district, including Calistoga..... | 34,000 00 | ..... | 34,000 00 |
| Ukiah and Potter Valley district..... | 59,900 00 | ..... | 59,900 00 |
| Grand total ..... | ..... | ..... | \$265,900 00 |

I find that the purposes for which the proceeds of the bonds and stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income.

Applicant's deed of trust to the Mercantile Trust Company of San Francisco, dated April 1, 1913, provides for three series of bonds, in denominations of \$100.00, \$500.00, and \$1,000.00, respectively. Section 4 of article XII provides that after the initial issue of \$350,000.00, bonds shall issue only up to 90 per cent of the cost of the acquisition of new property, or the construction, completion, extension or improvement of the applicant's facilities or service or of the amount of money required for the discharge or lawful refunding of applicant's obligations. Section 8 of article X provides in part that the trustee shall not certify to or deliver any bonds unless there shall have been furnished to the trustee a certificate showing that the amount of applicant's net income for the period of twelve months ending one month before the first day of the calendar month in which the demand shall be made, is at least one and three fourths times the amount of the annual interest upon all of the bonds theretofore issued and outstanding, together with all of the bonds the certification and delivery of which should then be requested. The section defines the term "net income" as being the gross earnings or income of the applicant less operating expenses, including taxes, insurance, rentals and usual and proper charges for current repairs and maintenance. Before the trustee certifies to any bonds under this order, it will, of course, see to it that the applicant brings itself within the terms of this section. It will be necessary to determine whether the applicant can show the requisite net income and to determine whether the proper amounts have been charged for operating expenses, including current repairs and maintenance, as provided in the section. The Commission has not made an investigation into this branch of the question.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

California Telephone and Light Company having applied to the Rail-

road Commission for an order authorizing the issuance of bonds of the face value of \$100,000.00, said bonds to be payable on the first day of April, 1943, and to bear interest at the rate of six (6) per cent per annum, payable semiannually and secured by a trust deed or mortgage upon all of the property of the company, and also the issue of preferred stock of the par value of \$50,000.00, and a public hearing having been held upon said application and the Commission finding that the purposes for which the proceeds of said bonds and stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by California Telephone and Light Company of one hundred thousand dollars (\$100,000), face value, of bonds of said company, maturing on April 1, 1943, bearing interest at the rate of six (6) per cent per annum, payable semiannually, under and in pursuance of the terms of the deed of trust or mortgage heretofore and on the first day of April, 1913, made and executed by California Telephone and Light Company to Mercantile Trust Company of San Francisco, as trustee, and also the issue of its six (6) per cent cumulative preferred stock of the par value of fifty thousand dollars (\$50,000), upon the following conditions and not otherwise, to wit:

1. California Telephone and Light Company shall sell said bonds hereby authorized so as to net said company not less than ninety-four (94) per cent of the face value thereof, besides interest accrued thereon, and said stock so as to net said company not less than eighty (80) per cent of the par value thereof.

2. California Telephone and Light Company shall apply the proceeds from the sale of said bonds and stock only for the purpose of discharging and refunding indebtedness heretofore incurred in the amount of thirty-one thousand eight hundred and ten and 50/100 dollars (\$31,810.50) for the acquisition of property and the construction, completion, extension and improvement of its facilities, as appears from its Exhibit "A," referred to in the opinion which precedes this order, and to which exhibit reference is hereby made, and for the purpose, to the extent of the remaining proceeds from the sale of said bonds and stock, of the acquisition of property and the construction, completion, extension and improvement of its facilities for the property and facilities and not exceeding the amounts specified for electric and telephone service in each of applicant's districts specified in Exhibit "J," attached to the petition in Application No. 498, which exhibit is referred to in the opinion which precedes this order, and is now specifically referred to.

3. California Telephone and Light Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the bonds and preferred stock hereby author-

ized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, stating the sale or sales of said bonds and stock during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. California Telephone and Light Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustee under its said trust deed or mortgage, on which statements or certificates it expects to receive from the trustee the bonds hereby authorized to be issued.

5. In so far as this order authorizes the issue of bonds it shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, has been paid.

6. The authority hereby given to issue bonds and stock shall apply only to bonds and stock issued on or before December 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of November, 1913.

DECISION No. 1087.

IN THE MATTER OF THE APPLICATION OF MARY E. BACKUS
FOR AUTHORITY TO SELL HER WATER SYSTEM IN THE
CITY OF EAGLE ROCK TO THE EAGLE ROCK WATER
COMPANY AND OF THE EAGLE ROCK WATER COMPANY
TO ISSUE STOCK IN EXCHANGE FOR SAID WATER
SYSTEM.

Application No. 813.

Decided November 21, 1913.

Eagle Rock Water Company authorized to issue 7,596 shares of its capital stock of the par value of \$1.00 per share, said stock to be delivered to Mary E. Backus in exchange for a certain water plant in the city of Eagle Rock.

Earle K. Backus, for Mary E. Backus.

Garrett, Bush & Garrett, for Eagle Rock Water Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Mary E. Backus having applied to this Commission for an order authorizing her to transfer to the Eagle Rock Water Company a small water system owned and operated by her in the city of Eagle Rock, Los Angeles County, California, in accordance with the contract of sale attached to the application in this proceeding and marked "Exhibit C," the property to be transferred being hereinafter described in greater detail; and the Eagle Rock Water Company having applied to this Commission for permission to issue to Mary E. Backus 7.596 shares of its capital stock of the par value of \$7,596.00 in consideration for said water system; and a public hearing having been held upon this matter, and it appearing to this Commission that if the Eagle Rock Water Company acquires the water system now owned by Mary E. Backus it will obtain an additional water supply for the use of its consumers, and the Commission being of the opinion that the application if granted will, in other respects, subserve the interests of the public at Eagle Rock,

It is hereby ordered that Mary E. Backus be, and she hereby is, authorized to transfer to the Eagle Rock Water Company that portion of the water system now owned by her in the city of Eagle Rock, Los Angeles County, California, which is described in the contract of sale attached to the application in this proceeding and marked "Exhibit C," as follows:

"It is agreed that the property included in this sale is set forth in a document attached hereto entitled 'Inventory, Backus Water Plant' " (defining in detail the pipes, fittings, equipment and tools to be transferred), "and that the same is to include lot ninety-six (96) and the easterly sixty (60) feet of lot seventy-eight (78) of Tract No. 237, as shown by map of Tract No. 237 filed in the office of the county recorder of the county of Los Angeles, State of California, and that the same does not include the reservoir or any rights to lot eighty-six (86) in said tract 237, save and except the right to go upon said lot and remove all pipe therefrom."

upon the following condition: The consideration given for the property herein authorized to be transferred shall not be taken before this Commission or any other public body as representing for rate fixing or other purposes the actual value of the property transferred.

It is further ordered that Eagle Rock Water Company be, and it hereby is, authorized to issue 7.596 shares of its capital stock of the aggregate par value of \$7,596.00 upon the following conditions, and not otherwise, to wit:

1. The stock herein authorized to be issued shall be issued in exchange for all that portion of the water system owned by Mary E. Backus

situated in the city of Eagle Rock, Los Angeles County, California, and which is herein authorized to be transferred;

2. The Eagle Rock Water Company shall keep true, separate and accurate accounts showing the amount of stock issued, the date of issue and the consideration received in exchange therefor, of all stock herein authorized to be issued and on or before the twenty-fifth day of each month shall make a verified report to the Commission, setting forth said facts, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

3. The authority herein granted Eagle Rock Water Company to issue stock shall apply only to stock issued on or before December 31, 1913.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of November, 1913.

DECISION No. 1088.

TIDEWATER SOUTHERN RAILWAY COMPANY

vs.

TRANSCONTINENTAL SCRIP BUREAU.

Case No. 493.

Decided November 21, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Tidewater Southern Railway Company having made written request to this Commission that the complaint in the above-entitled proceeding be dismissed,

It is hereby ordered that the complaint in this proceeding be, and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 21st day of November, 1913.

DECISION No. 1089.

IN THE MATTER OF THE APPLICATION OF THE MOKELUMNE RIVER POWER AND WATER COMPANY FOR PERMISSION TO ISSUE PROMISSORY NOTES.

Application No. 828.*Decided November 25, 1913.*

Application of Mokelumne River Power and Water Company to issue certain notes, dismissed without prejudice.

C. E. Prindle, for Applicant.

REPORT OF THE COMMISSION.

ESHELMAN, Commissioner.

The applicant is a public utility water company doing business in and around Mokelumne Hill, Calaveras County, California, and engaged principally in supplying water to mines. Because of recent drouths and slackness in mining operations, this company, which, with its predecessor, has been doing business since 1852 and has been a paying concern, has been unable to make operating expenses; and Mr. I. S. Foorman, president of the company, has been advancing money for current expenses and now holds notes aggregating \$7,309.07, with interest due thereon of \$521.21, and in addition has advanced \$1,069.58, making a total of \$8,899.86, for which sum this company now applies to issue a note to Mr. Foorman payable on September 1, 1914, which is less than one year after its issue.

As far as the \$1,069.58 is concerned, this being a note payable in less than one year and not for refunding purposes, no approval of this Commission is necessary. For the other notes, amounting to \$7,309.07, this Commission's permission will be necessary if they are refunded.

At the hearing it was testified that this company is a close corporation and the stock is almost all held by the family of Mr. Foorman, and he is perfectly willing to permit the note to run without refunding, and to secure its payment either from the funds which it was testified the company will subsequently earn or by assessment of the stockholders or by resort to the courts to collect.

It is my opinion that a note issued for one year or less may be collected by suit or otherwise any time after the expiration of the time for which the note is made to run within the statute of limitations, and that the holder of such note does not require an extension of the same by the company or the consequent approval of such extension by this Commission. In other words, the law permits a public

utility corporation to borrow money payable within a year without the permission of this Commission, and it certainly does not deprive the person who loans the money which the corporation is legally entitled to borrow from pursuing his remedy within the time permitted by law.

Inasmuch as Mr. Foorman is willing to hold his old note without refunding, and the additional debt which has now been incurred may be evidenced by note which does not extend for a longer period than a year, action of this Commission is not necessary and it is not necessary to determine whether this application is one of those cases where the Commission shall exercise its discretion in permitting refunding of notes when the proceeds of the original obligation have been used for operating expenses or income.

I, therefore, recommend the following order:

ORDER.

Mokelumne River Power and Water Company having applied to this Commission for authority to issue notes, and it appearing that the exercise of any authority which this Commission may have is not necessary or desired by the applicant,

It is hereby ordered that the application be dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of November, 1913.

DECISION No. 1090.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR APPROVAL OF PLANS AND SPECIFICATIONS COVERING THE CONSTRUCTION OF A NEW PASSENGER STATION AT LOS ANGELES, STATE OF CALIFORNIA.

Application No. 793.

Decided November 25, 1913.

Applicant authorized to tear down and abandon its present passenger depot in the city of Los Angeles and to erect a new depot in lieu thereof and to take up and relocate such trackage as is necessary in connection therewith.

Trippet, Chapman & Biby, representing complainant in Case No. 467.
C. W. Durbrow and Frank Karr, representing Southern Pacific Company and Pacific Electric Railway Company.

John C. Mott and G. C. O'Connell, representing Alameda street property owners, intervenors.

S. M. Haskins, representing Los Angeles Railway Corporation.

Albert Lee Stephens and Howard Robertson, representing the City of Los Angeles.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern Pacific Company for an order authorizing it to tear down and abandon an existing passenger depot building in the city of Los Angeles, and to erect a new depot in said city, in accordance with plans and specifications on file herein, the approval of which is also asked, and to take up and relocate existing trackage and place new trackage in accordance with said plans and specifications.

Prior to the filing of this application, W. H. Daum filed with this Commission a complaint alleging, in substance, that the Southern Pacific Company was operating its steam line railroad into the city of Los Angeles over Alameda street to and beyond the depot site herein mentioned, and that said railroad between Main street and Ninth street on said Alameda street operates at grade across several important streets, and that said operation results in serious danger, damage and inconvenience to the public using such cross streets, and that the building of the depot herein mentioned would result in preventing or delaying the separation of such grade crossings.

The complaint of said W. H. Daum was first heard and immediately following said hearing, the application of said Southern Pacific Company for the approval of the aforesaid plans was heard, and it was agreed by all parties that any relevant evidence introduced at either hearing might be considered as having been introduced at either or both hearings.

At the hearing of this application W. H. Daum appeared and objected to the approval of these depot plans, unless such approval would in no wise interfere with or delay the separation of the grade crossings complained of.

The city of Los Angeles appeared in this matter and made no objection to the approval of these plans and specifications, provided that such approval would in no wise delay or prevent the separation of dangerous or objectionable grade crossings.

The plans and specifications submitted for the approval of the Commission have been carefully examined and approved by the engineering department of this Commission.

The structure to be erected under these plans will be efficient and ample to provide for the probable passenger traffic coming to and departing from a city several times the present size of Los Angeles. The track lay-out will be very much improved over that which now exists, and altogether the proposed depot will be a great improvement over the present one. The cost of this depot and track lay-out is estimated to be \$300,000.00 for the depot and \$315,000.00 for the track lay-out, etc.

It is planned to bring the Pacific Electric Railway Company cars on to the depot property, thus unloading and loading passengers away from the street, but no definite plan has been agreed upon for the convenient loading and unloading of passengers to and from the local street cars operated by the Los Angeles Railway Corporation, and I believe this matter should be given immediate consideration by the city and the companies involved, in order that passengers traveling on the local street cars may be taken to and from this depot comfortably and conveniently.

The testimony by the engineer and architect of applicant was that with an expenditure of \$10,000.00 this depot would be entirely suitable, efficient and convenient, if the tracks of applicant were elevated or depressed, or other means adopted, separating grades along Alameda street.

Furthermore, counsel for applicant stipulated that if permitted to erect this depot, no objection would ever be made to the separation of grade crossings in the city of Los Angeles, based on the expenditure made for the erection of this depot.

In view of the fact that Los Angeles is urgently demanding this new depot and as it will take considerable time to build the same, and as it is clear from the evidence and stipulation heretofore mentioned that the erection of this depot will in no wise delay or prevent the separation of dangerous and objectionable grade crossings in the city of Los Angeles, I recommend that the application be granted upon condition that the erection of the proposed depot and track lay-out shall never be used as a defense against the separation of grade crossings.

I submit herewith the following form of order:

ORDER.

Application having been made by Southern Pacific Company for permission to tear down and abandon a depot in the city of Los Angeles and to erect in place thereof a new depot and to take up, relocate and place new trackage in connection with said depot, all in accordance with plans and specifications filed herein, and a public hearing having been held

thereon and it appearing to the Commission that said application should be granted,

It is hereby ordered that Southern Pacific Company is hereby authorized to tear down and abandon its passenger depot located on Alameda street between Fourth and Sixth streets, in the city of Los Angeles, and to erect in lieu thereof a new passenger depot on said Alameda street between said Fourth and Sixth streets and to take up, relocate and place new trackage in connection with the erection of said new depot, all in accordance with plans and specifications on file herein and marked Exhibits "F" to "Z," inclusive; provided, however, that the tearing down and abandonment of said old depot and the erection of said new depot, and the taking up, relocating and placing of new trackage in connection with said new depot, or the approval of this Commission therefor, shall never be used as a defense against the separation of grade crossings in the State of California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of November, 1913.

DECISION No. 1091.

IN THE MATTER OF THE APPLICATION OF MAILLIARD
ESTATE FOR PERMISSION TO MAKE INCREASE IN
CHARGES.

Application No. 435.

Decided November 25, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

EDGERTON, *Commissioner*.

On September 12, 1913, the Commission made and entered its order establishing just and reasonable rates to be charged for water distributed by the Mailliard Estate, under Application No. 435, at the towns of Lagunitas and San Geronimo, Marin County, California.

It appears, however, that prior to September 12, 1913, the Mailliard Estate had in effect, and duly filed with the Commission, a rate of 50 cents per thousand gallons for all water used over and above 4,500 gallons in any one month. Rates fixed under this application were upon

a flat rate basis and did not take into consideration quantities of water above 4,500 gallons.

It is therefore ordered that the order in the above entitled matter issued by this Commission on September 12, 1913, be so amended as to permit applicant to charge a rate of 50 cents per thousand gallons for all water used in excess of 4,500 gallons per month.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of November, 1913.

DECISION No. 1092.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR AUTHORITY TO ISSUE ONE MILLION DOLLARS OF TWO-YEAR COLLATERAL TRUST NOTES AND TO EXECUTE A COLLATERAL TRUST AGREEMENT.

Application No. 830.

Decided November 27, 1913.

Applicant authorized to execute its promissory notes of the aggregate face value of \$1,000,000.00 and to issue and pledge as security therefor \$1,334,000.00 face value of bonds, proceeds of said notes to be used to refund certain notes now outstanding, and to reimburse applicant for money heretofore expended, chargeable to capital account.

McCutchen, Olney & Willard, for Applicant.

REPORT OF THE COMMISSION.

ESHLEMAN, Commissioner.

This is an application by Spring Valley Water Company to issue \$1,000,000.00 of two-year collateral trust notes, to pledge as security therefor \$1,334,000.00 of its 4 per cent general mortgage bonds and to execute a trust agreement to Union Trust Company of San Francisco, as trustee. The main provisions of the trust agreement are as follows:

(1) The issue of two-year 5½ per cent collateral trust notes of a maximum of \$2,000,000.00.

(2) Spring Valley Water Company's general mortgage 4 per cent bonds to be pledged as security for the notes in the proportion of \$4,000.00 of bonds for \$3,000.00 of notes.

(3) The company may issue at this time \$1,000,000.00 of its collateral trust notes by placing as security therefor \$1,334,000.00 of its bonds.

(4) The company may issue a second \$1,000,000.00 of notes, or any part thereof, by pledging as security with the trustee bonds, so that the proportion of bonds pledged to notes outstanding shall be four to three.

(5) The notes are redeemable at 100 $\frac{1}{2}$.

(6) The floating indebtedness of the company secured by pledge of its general mortgage bonds must be limited to \$500,000.00 while any of the notes remain outstanding.

The present application, as has already been said, is to issue the \$1,000,000.00 of two-year collateral trust notes and to pledge as security therefor to the Union Trust Company \$1,334,000.00. The second \$1,000,000.00 of notes and the necessary collateral provided for in the trust agreement are not the subject of this application, and any action with respect thereto must receive the subsequent approval of this Commission.

It is proposed to sell the notes at 98, and with the sum of \$980,000.00 to be realized therefrom to pay off existing indebtedness in the sum of \$975,000.00, and to use for reimbursement of moneys expended on its Calaveras dam the sum of \$5,000.00, making a total of \$980,000.00.

Evidently it is necessary in passing upon this application to determine, first, whether the financial condition of this company is such as to warrant the Commission in granting the application, and, second, whether the indebtedness sought to be refunded is such as would justify this Commission in granting the application. I will consider these matters in the order named.

Spring Valley Water Company serves the city of San Francisco and the inhabitants thereof with water for domestic purposes. It also serves certain users in San Mateo and Alameda counties. The company owns in fee 100.522 acres of land. Of this land, 2,178 acres are located in the city and county of San Francisco; 29,710 acres in San Mateo County; 36.654 acres in Alameda County; 31,289 acres in Santa Clara County; and 691 acres in San Benito County. Applicant owns in addition riparian rights on 51.558 acres of land in Alameda, Santa Clara and San Mateo counties. The chief sources of water supply are the watersheds of San Mateo County and the underground reservoirs and watersheds of Alameda County.

Applicant has an authorized issue of 280,000 shares of common stock, all outstanding, and has an authorized bond issue of \$28,000,000.00, issued under a deed of trust to the Union Trust Company of San Francisco, dated December 1, 1903, and maturing December 1, 1923. Of

this issue there are outstanding at the present time bonds in the sum of \$17,859,000.00. Applicant lists its other indebtedness as follows:

| | |
|--|----------------|
| Mortgage indebtedness | \$324,046 25 |
| Other indebtedness evidenced by notes to San Francisco banks | 750,000 00 |
| Accruals payable | 180,000 00 |
| Total in addition to bonded indebtedness | \$1,254,046 25 |

which added to its bonded indebtedness brings its total indebtedness up to the sum of \$19,113,046.25.

Applicant states that the book value of its system is \$48,466,480.13, and that under an appraisal made by J. G. White & Company in December, 1911, its property is valued at \$64,960,361.00. About five years ago this company offered to sell its property to the city and county of San Francisco for \$32,000,000.00. In 1909, it offered its property to the city for \$35,000,000.00. Recently the city authorities offered to recommend the purchase of the property of the company less certain of its real estate, for \$37,000,000.00.

While the Commission could not and would not find specifically on the value of this company's property from the evidence in this and other cases involving this company, yet it plainly appears to my satisfaction that the value of the property is such that this application should be allowed, particularly in view of the fact that the application merely serves to refund existing obligations and does not add to any considerable degree to the present outstanding obligations of the applicant.

Applicant submits for the year ending December 31, 1912, the following statement of earnings:

| | |
|--|----------------|
| Operating revenue | \$3,090,616 94 |
| Operating expenses and taxes | 1,197,830 65 |
| Net operating revenue | \$1,892,786 29 |
| Nonoperating revenue, rents from buildings, lands, etc..... | 104,761 89 |
| Gross net revenue | \$1,997,548 18 |
| Payment of interest on funded and unfunded debts into sinking fund and to amount written off..... | 1,259,644 15 |
| Net corporate income after payment of all operating expenses and interest on outstanding obligations, etc..... | \$737,904 03 |

Out of this amount the company paid \$560,000.00 as a dividend and carried forward \$177,904.03.

Therefore, it will readily appear that from the standpoint of income likewise this company is amply able to carry its obligations.

It only remains, then, to be seen whether or not the debts to be refunded are properly chargeable to capital account. I do not believe it is necessary to analyze the evidence in this regard, since it readily appears that within five years last past this company has expended a considerable amount in excess of the amount here represented for lands, and it is testified that the proceeds of all of the notes sought to be

refunded have been used for proper capital purposes and not for operating expenses or income, and I am of the opinion that such is the fact.

In Decision No. 1047 upon Application No. 801, rendered on October 29, 1913, this Commission granted authority to the applicant to issue a ninety-day note in the sum of \$300,000.00 for the purpose of paying off \$185,000.00 of mortgage indebtedness upon land and for the purpose of using the balance, in the sum of \$115,000.00 for work upon the Calaveras dam. The applicant now desires to apply the proceeds of \$980,000.00 from the \$1,000,000.00 note issue for the payment of the following indebtedness:

| | |
|--|--------------|
| Note issued by authority of this Commission under Application No. 801 ----- | \$300,000 00 |
| Promissory note held by Bank of California, dated December 1, 1911, payable on or before December 1, 1912, with interest at 5 per cent per annum ----- | 200,000 00 |
| Promissory note held by Bank of California, dated June 1, 1912, payable on or before December 1, 1912, with interest at 5 per cent per annum, \$75,000.00; less payment made on account, February 5, 1913, \$37,500.00 ----- | 37,500 00 |
| Promissory note held by Bank of California, dated June 15, 1912, payable on or before December 15, 1912, with interest at 5 per cent per annum ----- | 100,000 00 |
| Promissory note held by Bank of California, dated March 22, 1912, payable on or before January 22, 1913, with interest at 5 per cent per annum ----- | 50,000 00 |
| Promissory note held by Bank of California, dated December 2, 1912, payable on or before December 2, 1913, with interest at 5 per cent per annum ----- | 75,000 00 |
| Promissory note held by Wells Fargo Nevada National Bank, dated June 15, 1912, payable on or before December 15, 1912, with interest at 5 per cent per annum ----- | 100,000 00 |
| Promissory note held by Wells Fargo Nevada National Bank, dated June 1, 1912, payable on or before December 1, 1912, with interest at 5 per cent per annum, \$75,000.00; less payment made on account, \$37,500.00 ----- | 37,500 00 |
| Promissory note held by Crocker National Bank, dated December 31, 1912, payable on or before December 31, 1913, with interest at 5 per cent per annum ----- | 75,000 00 |
| To be applied on account of expenditures made on Calaveras dam and to reimburse money paid out of treasury on account of such expenditure ----- | 5,000 00 |
| Making a total of ----- | \$980,000 00 |

I believe that the application should be granted and recommend the following order:

ORDER.

Spring Valley Water Company having applied to this Commission for authority to issue \$1,000,000.00 of two-year collateral trust notes; to pledge as security therefor \$1,334,000.00 of its 4 per cent general mortgage bonds and to execute a trust agreement with the Union Trust Company, copy of which is filed in this case and hereby referred to; and a hearing having been held and being fully advised in the premises;

and it appearing that the proceeds of the notes to be issued hereunder are not to be used for refunding obligations, or for other expenditures wholly or in part chargeable to operating expenses or income, but that the notes to be refunded and the other expenditures to be made are proper capital charges, *it is hereby ordered*—

1. Permission is hereby granted to the Spring Valley Water Company to issue \$1,000,000.00 of two-year collateral trust notes and to sell the same at not less than 98, and to use the proceeds thereof to pay off the various notes set out in the opinion hereto, and for the reimbursement of the company for money expended on its Calaveras dam in the sum of \$5,000.00.

2. Permission is hereby granted to the Spring Valley Water Company to pledge to the Union Trust Company \$1,334,000.00 of its 4 per cent general mortgage bonds as security for the payment of the notes which are authorized in paragraph one of this order.

3. The trust agreement dated the first day of December, 1913, between Spring Valley Water Company and the Union Trust Company to which reference has heretofore been made, is hereby approved, but such approval does not authorize the issuance of any note or the pledging of any bonds beyond the amount herein just before set out.

The notes authorized to be issued hereunder shall be issued before one year from the date of this order, and likewise the bonds authorized to be pledged hereunder shall be pledged before one year from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of November, 1913.

Decisions Nos. 1093, 1094, 1095, 1096, 1097, and 1098, grade crossings; not printed.
See end of volume.

DECISION No. 1099.

A. RICHARD THOMPSON ET AL.

vs.

THE SAN DIEGO ELECTRIC RAILWAY COMPANY AND THE
SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY.

Case No. 452.

Decided December 3, 1913.

Complainants petition Commission to require respondents to exchange transfers at points of intersection of their respective lines.

Held, Commission having no jurisdiction to grant relief prayed for, complaint dismissed.

S. W. Switzer, for Complainant.

Read G. Dilworth, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

The complainants in this case reside in that portion of the city of San Diego which lies between South Chollas Creek and the Southern boundary line of the city of San Diego. The complaint alleges that the San Diego and Southeastern Railway Company operates a commercial railroad from the city of San Diego through National City and Chula Vista to Otay. The line of this railway practically bisects the territory in which these complainants reside. The complaint also alleges that the San Diego Electric Railway Company is an electric street railway operating in the city of San Diego; that this company has two lines running a short distance outside of the city limits, one to Kensington Park and the other to East San Diego.

The complaint requests that this Commission require the San Diego and Southeastern Railway Company and the San Diego Electric Railway Company to exchange transfers at the points of intersection of their lines. At present, if one of the complainants desires to reach some point on the line of the San Diego Electric Railway Company he must pay two fares of five cents each, one to the San Diego and Southeastern Railway Company and the other to the San Diego Electric Railway Company. An order such as prayed for in the complaint would entitle the complainants to reach any point on the lines of the San Diego Electric Railway Company for a single fare of five cents. Complainants do not desire the exchange of transfers in order to reach any point on the line of the San Diego Electric Railway Company outside of the city of San Diego.

In their answer to this complaint the defendant companies raise the question of jurisdiction. They claim that section 19 of article XI of the constitution of this State gives to the municipal authorities of the city of San Diego the right to regulate rates of transportation upon street railways between points within the municipal limits. They claim that the municipal authorities have already fixed a rate of five cents for such transportation. The defendant companies contend that this Commission has no jurisdiction to require them to exchange transfers for the reason that an order requiring such exchange of transfers would compel the street railway company to accept a portion only of the five cent fare for transporting a passenger between two points within the limits of the municipality, and that such an order would amount to a regulation of the rates of the street railway company for transportation

within the city limits, the power to regulate which rates is vested exclusively in the municipal authorities.

I am of the opinion that the contention of the defendant companies is correct, and that this Commission has no jurisdiction to grant the relief requested in this complaint.

I recommend, therefore, that the complaint be dismissed, and submit herewith the following form of order:

ORDER.

This case coming on regularly for hearing, and, after argument had, it appearing that this Commission has no jurisdiction to grant the relief asked for in the complaint,

It is hereby ordered that the complaint be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1913.

DECISION No. 1100.

SIMON W. SWITZER

vs.

THE SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY.

Case No. 490.

Decided December 3, 1913.

Defendant having satisfied complaint in every particular with the exception of stopping its cars at Division street, and said stop being found to be impracticable, complaint dismissed.

Simon W. Switzer, in propria persona.

Read C. Dilworth, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The complainant in this case resides in the city of San Diego near the southerly boundary thereof, in that portion of the city which is served by the line of the San Diego and Southeastern Railway Company, the defendant in this case. The complainant asks that this

Commission make an order requiring the San Diego and Southeastern Railway Company to—

“1st. To stop its passenger cars at Una street at or near Thirty-ninth street, and at Division street, in said territory.

“2d. That the conductors of said cars call out the names of said stopping places when approaching them in time to enable the passengers to prepare to alight from said cars.

“3d. That platforms or planks along side of its tracks, to assist passengers to get on said cars or alight therefrom, be placed and maintained at the stopping places in said territory.

“4th. That at the crossings for vehicles on said railroad in said territory the said railroad place and maintain planks between its tracks, and for two feet outside thereof, at a level with the tops of the rails of said tracks.”

At the hearing in this case it was shown that the defendant company had fully satisfied all of the complaints above mentioned except the one requesting that this Commission require the defendant company to stop its cars at Division street. The complainant thereupon asked that his complaint be withdrawn in so far as it had been satisfied by the defendant company, and this request was granted.

There remains, therefore, but one issue in this case, namely, whether the San Diego and Southeastern Railway Company shall be required to stop its cars at Division street. An investigation of this crossing was made by the service expert of the Commission to determine whether it would be practicable to require the cars of the defendant company to stop at this point. This investigation shows that there is an abrupt curve and narrow cut on the line of the defendant company at its intersection with Division street and that for this reason it would be very impracticable to establish a station and to require the cars of the defendant company to stop at this point. It appeared further that the cars of the defendant company now stop in National City at First street, which is approximately 300 feet south of Division street, and also at Thirty-ninth street in the city of San Diego which is only two blocks north of Division street.

I am of the opinion that, considering all the circumstances surrounding this case, this Commission should not at this time require the defendant company to stop its cars at Division street. I recommend, therefore, that the complaint in this case be dismissed and submit herewith the following form of order:

ORDER.

This case having come on regularly for hearing and it having appeared at the hearing that the defendant company had satisfied the complaint in this case in every particular except the request that the defendant company be required to stop its cars at Division street, and the complainant having requested that in so far as the complaint was

satisfied the same should be withdrawn, and the Commission having given due consideration to the request that the defendant company be required to stop its cars at Division street and being of the opinion that under all the circumstances of this case this request should be denied,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1913.

DECISION No. 1101.

SAN FRANCISCO CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 385.

Decided December 3, 1913.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

San Francisco Chamber of Commerce having filed with this Commission an application for rehearing of the order made by the Commission in this proceeding on October 30, 1913, and no good cause appearing why a rehearing should be held;

It is hereby ordered that the application for rehearing be and the same hereby is denied.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1913.

DECISION No. 1102.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC LIGHT AND POWER CORPORATION FOR A CERTIFICATE DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THAT IT BE ALLOWED TO EXERCISE RIGHTS AND PRIVILEGES CONTAINED IN FRANCHISES GRANTED BY THE COUNTY OF ORANGE AND THE CITY OF NEWPORT BEACH.

Application No. 768.

Decided December 3, 1913.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

Newport Beach Electric Light and Power Company having applied for a rehearing of the opinion and order of this Commission made in this proceeding on October 16, 1913, and no good cause appearing why a rehearing should be had,

It is hereby ordered that the application of Newport Beach Electric Light and Power Company for rehearing of the opinion and order of this Commission made in this proceeding on October 16, 1913, be and the same is hereby denied.

Dated at San Francisco, California, this 3d day of December, 1913.

Decisions Nos. 1103, 1104, 1105, grade crossings; not printed. See end of volume.

DECISION No. 1106.

IN THE MATTER OF THE APPLICATION OF WM. G. HENSHAW, DOING BUSINESS AS A RAILROAD CORPORATION. UNDER THE NAME AND STYLE OF CRESCENT CITY RAILWAY COMPANY, FOR PERMISSION TO CONSTRUCT A TRACK OF SAID CORPORATION AT GRADE ACROSS THE TRACKS OF THE SOUTHERN PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC COMPANY AT BLOOMINGTON, SAN BERNARDINO COUNTY, CALIFORNIA.

Application No. 809.

Decided December 3, 1913.

Held, Crescent City Railway Company and Pacific Electric Railway Company authorized to construct jointly a grade crossing over the tracks of the Southern Pacific Company at Bloomington, California.

H. L. Carnahan, for Applicant.

George D. Squires, for Southern Pacific Company and Southern Pacific Railroad Company.

Frank Carr, for Pacific Electric Railway Company.

Paul Shoup, for Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Crescent City Railway Company, applicant in the above entitled matter, is the owner and in possession of a standard gauge single track railway extending from the city of Riverside, Riverside County, California, in a general northwesterly direction to a point south of and adjacent to the tracks of the Southern Pacific Railroad Company, in the village of Bloomington, and operates said railway as a common carrier for the transportation of persons and property thereover.

On October 24, 1913, applicant filed its petition with the Commission, stating that it desired to extend and construct its line of railway through the village of Bloomington, San Bernardino County, California, in a general northeasterly direction, a distance of about three and one half ($3\frac{1}{2}$) miles, to the city of Rialto in the county of San Bernardino.

In the construction of this extension it is necessary that applicant's tracks intersect and cross the tracks of the Southern Pacific Railroad Company at Bloomington, and application was made to the Commission for permission to construct said crossing.

Ordinarily when one railroad company seeks to construct its tracks over and across the tracks of another railroad company, this Commission does not require that a public hearing be had in the matter, providing the parties at interest have come to an agreement among themselves and filed in conjunction with the application a copy of said agreement. In such cases the Commission generally grants the application *ex parte* after an investigation has been made and in its order and authorization provides for the public safety and convenience.

Applicant requested permission to construct its tracks at grade across the tracks of Southern Pacific Railroad Company, but did not file with the application a copy of the required agreement entered into between the two companies, but stipulated "That your petitioner and said companies have agreed as to the location of said crossing and that same should be at grade, but they have not agreed nor can not agree as to the rights to be granted to and obligations to be imposed upon each of said parties in the construction, operation and maintenance of said crossing." Consequently, the matter was set for public hearing in the city of Los Angeles on Wednesday, November 12, 1913, at 10 o'clock a. m., at which all parties at interest were present and gave such testimony as was relevant.

The Pacific Electric Railway Company through its president, Mr. Paul Shoup, and its attorney, Mr. Frank Carr, requested permission to intervene in this matter, stating that the Pacific Electric Railway Company is proposing to construct a line of railway from Rosena, San Bernardino County, on its San Bernardino extension, to Bloomington and across the line of the Southern Pacific Railroad Company, and the reason for the intervention of said Pacific Electric Railway Company was that it also desired a crossing of the tracks of the Southern Pacific Company at Bloomington, and that inasmuch as the Pacific Electric Railway Company was at present operating the passenger cars and traffic on the Crescent City Railway, and that if the operating rights over the lines of applicant which it now has should be canceled, that the intervenors would still desire to cross the tracks of Southern Pacific Railroad Company at Bloomington and would extend and construct their own line into the city of Riverside, thus causing two crossings over the tracks of the Southern Pacific Railroad Company at Bloomington, providing the Commission would not allow both the Pacific Electric Railway Company and the Crescent City Railway Company to use the same crossing. Intervenors stated that they were willing to pay one half of the cost of the crossing and one half of the cost of maintenance thereafter.

Applicant opposed the application of Pacific Electric Railway Company to participate in the construction and ownership of this crossing for the reason that it had not been definitely established that Pacific Electric Railway Company would construct the line from Bloomington to Rosena, as stated by counsel for the intervenors, and further, for the reason that in the future should the Crescent City Railway Company desire to issue bonds on its property, it would desire a continuous unbroken line of sole ownership from Riverside to Rialto.

Witnesses were placed on the stand by intervenor, and it was demonstrated to the satisfaction of this Commission that intervenor intends in the very near future to construct its line from Rosena to Bloomington and to cross the tracks of Southern Pacific Company with said line, and if operating rights which intervenor now has over the tracks of applicant are annulled, that intervenor will construct its own line from Bloomington into the city of Riverside.

The principal testimony introduced at the hearing was concerning the manner in which the crossing should be made and also as to the apportionment of the cost of constructing, operating, and maintaining the crossing, and proper protective devices. Considerable testimony was given by engineers of applicant, intervenor and Southern Pacific Railroad Company, as to the feasibility of constructing the tracks of applicant under the tracks of the Southern Pacific Railroad Company by means of a subway. It was clearly demonstrated that drainage

conditions and the topography of the land would preclude such construction, and it is my opinion that the only feasible crossing at this place is a grade crossing protected by a standard interlocking plant. I am also of the opinion that the intervenor, Pacific Electric Railway Company, should be allowed to cross the tracks of the Southern Pacific Railway Company, using therefore the same crossing that applicant now desires this Commission to authorize, and that they, the Pacific Electric Railway Company, should be allowed to participate in the cost of construction of said crossing and the necessary protective devices, and that they should be joint owners with applicant of this crossing. If Pacific Electric Railway Company is not allowed to participate in the construction and ownership of this crossing, it will be necessary that another crossing be established in the immediate vicinity, probably within a distance of not more than one hundred yards, which would be very undesirable not only to the Southern Pacific Railroad Company but also to the applicant, intervenor and the traveling public.

Considerable testimony was introduced as to the apportionment of the cost of constructing, operating and maintaining the crossing, and proper protective devices. This question has previously been presented to the Commission for consideration, but in nearly every case the parties at interest have reached an agreement among themselves prior to the hearing. However, the Commission has been asked to prescribe a rule which the railroad companies may follow in the future relative to the apportionment of these costs, and I will now confine myself to a consideration of this question.

The Public Utilities Act gives this Commission the authority to determine and prescribe the manner, including the particular point of crossing, and terms of installation, operation and maintenance, use and protection of every crossing of one railroad by another railroad or street railroad, and to order or abolish any such crossing and to require where in its judgment it will be practicable to make grade separation, and to prescribe the terms upon which such separation shall be made, and the proportion in which the expense of the alteration or abolition of said crossings or separation of said grades shall be divided between the railroad or street railroad or corporation affected.

The expense imposed on a short and weak line is very often a hardship when it is necessary that an interlocking plant be installed and operated by an attendant both day and night. It is not so much the first cost of the construction of the plant as it is the yearly cost of operation and maintenance, which is a charge on the income of the road.

When a railroad company lays down its track it does so by virtue of a franchise derived from the State, and which it holds for the public benefit, and subject to such future regulations, police and otherwise, which may for the proper care of the public interest be imposed from

the same source. Had the right of way of the first road which was crossed by the tracks of the other roads, without the imposition of large burdens, been based solely upon the advantages of priority in time, it is not difficult to see that the development of the State might have been by such a policy seriously retarded. Seniority can not be taken as a basis of determination, discarding other conditions. There may arise cases where it will constitute an element proper to be considered, and speaking generally, if the Commission finds two railroads in operation upon the ground without special contract burdens between themselves, they must be dealt with on a basis of practical equality. Corporations as well as citizens are subject to the police power of the State. Should it be held that before any railroad could be laid across a railroad previously constructed, the damage from any inconvenience such company might suffer on account of having to submit to and observe police regulations in regard to the conduct of its business thereafter should first be ascertained and paid by the new road, it would amount to a practical prohibition of the construction of new roads in the State.

Regardless of the seniority, the junior road has just as much right to do business as a corporation as the senior road. It acquires its power from the State to perform the functions of a corporation for the use of the public, and when required by the police powers to install safety devices while performing the functions of a corporation, a basis for the apportionment of expenses must be determined which is fair and equitable.

It must be borne in mind, however, that a railroad which is constructed and operated will be unduly burdened by having to share the expense of another road which seeks to cross its tracks and which will in no way increase the revenue of the senior road, and which may add greatly to its operating expenses by means of reducing speed and other precautionary safety measures, and I am of the opinion that unless extenuating circumstances can be shown which will tend to alter normal conditions, that the road seeking to cross should bear the entire expense of constructing and maintaining the crossing, and also constructing such interlocking plants or other safety devices as may be necessary, and that the cost of operating and maintaining the interlocking plant or other safety device should be borne equally between the two roads.

There was no substantial reason advanced at the hearing that would preclude intervenor in this case from joint ownership of the crossing, and I recommend the following form of order:

ORDER.

Crescent City Railway, a corporation, having on October 24, 1913, filed with the Commission an application for permission to construct its main line track at grade across the tracks of the Southern Pacific Railroad Company and Southern Pacific Company at Bloomington, San

Bernardino County, California, and a public hearing having been held upon the application at Los Angeles, California, on November 12, 1913, at which time the Pacific Electric Railway Company intervened, asking that the Commission allow it to participate in the construction and ownership of said crossing, and at which hearing all parties interested were present, and testimony concerning the matter was given, including the practicability of avoiding a grade crossing and also the intervention of Pacific Electric Railway Company in the joint ownership of said crossing; and it appearing to the Commission that the physical and topographical conditions indicate that it is impracticable to avoid a grade crossing at said proposed point of crossing, and that the Pacific Electric Railway Company should be allowed to share in the construction and ownership of said grade crossing; and it further appearing that the proper division of cost of said grade crossing, together with necessary interlocking device to protect same, is that applicant and intervenor shall each bear one half of the total cost of installing the crossing, together with the necessary interlocking device; and it further appearing that applicant and intervenor should be granted permission to construct their track at grade across the tracks of Southern Pacific Railroad Company and be permitted to operate over same,

It is hereby ordered that permission be hereby granted Crescent City Railway and Pacific Electric Railway Company to construct jointly a single main line track at grade across the tracks of the Southern Pacific Railroad Company and Southern Pacific Company in the village of Bloomington, San Bernardino County, California, at a point 142 feet west of the westerly side of the Southern Pacific Company's depot at Bloomington, as shown by the map and profile attached to the application and subject to the following conditions, viz:

1. Applicant and intervenor shall provide suitable crossing frogs and timbers for the construction of said crossing, and shall thereafter maintain same in good and first-class condition, for the safe operation of trains and cars thereover, and the cost of installing and maintaining the crossing shall be divided equally between applicant and intervenor.

2. For the protection of said crossing applicant and intervenor shall at their own expense within nine (9) months after the date of this order construct and install a first-class standard interlocking device of such plan and design as shall conform with this Commission's General Order No. 33, and the entire cost of constructing and installing said interlocking device shall be divided equally between applicant and intervenor.

Said interlocking device shall thereafter be operated and maintained in accordance with this Commission's General Order No. 33, and also in accordance with such other rules and regulations as this Commission may issue in this matter; and the expense of maintaining and operating said interlocking device after the installation thereof shall be divided as

60—BD

follows: One half of the expense of maintaining and operating said interlocking device shall be borne by Southern Pacific Company and the other one half shall be borne equally by applicant and intervenor.

3. After the installation of the crossing frogs above provided for, and up to the time the interlocking device hereinbefore specified has been completed and placed in operation, under the authority of this Commission, all engines, motors, trains or cars of either applicant or intervenor shall before proceeding over the crossing come to a full stop within fifty (50) feet thereof, and shall not proceed over the crossing until the conductor or other employee has first gone thereon and ascertained that it is safe to proceed, and until proper signals have been given by whistle and bell.

All engines, motors, trains and cars of Southern Pacific Company shall be operated over the crossing until the interlocking device above provided for is completed and placed in operation under control and at a speed not exceeding fifteen (15) miles per hour, providing proper signals are given by whistle and bell within sufficient distance before reaching the crossing, to advise employees of applicant and intervenor of such approach.

4. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing order is hereby ordered approved and filed.

Dated at San Francisco, California, this 3d day of December, 1913.

Decision No. 1107, grade crossing; not printed. See end of volume.

DECISION No. 1108.

IN THE MATTER OF THE APPLICATION OF SAN JOSE
WATER COMPANY TO ISSUE PROMISSORY NOTES TO
THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS.

Application No. 559.

Decided December 3, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

GORDON, *Commissioner*.

This Commission having, in its order made in this proceeding on June 6, 1913, authorized the San Jose Water Company to issue its

promissory notes of the aggregate face value of \$100,000.00, the proceeds derived from said notes to be expended for certain specified purposes, among which was the following:

For additions to applicant's plant as follows:

| | |
|--|-------------|
| Balance on account of main station----- | \$10,750 00 |
| Balance on account of Buena Vista station----- | 3,750 00 |
| Balance on account of well "N"----- | 4,750 00 |
| Tisdale pump station----- | 2,000 00 |
| Market street 10- and 12-inch line----- | 3,750 00 |
| Air compressor----- | 4,000 00 |
| | <hr/> |
| | \$29,000 00 |

And the San Jose Water Company having requested that it be authorized to apply the proceeds from the \$29,000.00 above mentioned in a different manner than in accordance with the estimates above specified, applicant desiring now to use this \$29,000.00 to pay in part the following items:

| | |
|--|-------------|
| On account of main station----- | \$8,157 83 |
| On account of Buena Vista station----- | 9,576 22 |
| On account of well "N"----- | 3,138 89 |
| On account of Tisdale pump----- | 1,205 71 |
| On account of Market street line----- | 4,771 15 |
| On account of air compressor----- | 3,057 51 |
| | <hr/> |
| | \$29,907 31 |

And the Commission being of the opinion that the original order made in this proceeding should be amended in accordance with applicant's request,

It is hereby ordered that section 2 (b) of the order heretofore made in this proceeding on June 6, 1913, be, and the same hereby is, amended to read as follows:

Twenty-nine thousand dollars (\$29,000.00) to apply on additions to applicant's plant as follows:

| | |
|--|-------------|
| On account of main station----- | \$8,157 83 |
| On account of Buena Vista station----- | 9,576 22 |
| On account of well "N"----- | 3,138 89 |
| On account of Tisdale pump----- | 1,205 71 |
| On account of Market street line----- | 4,771 15 |
| On account of air compressor----- | 3,057 51 |
| | <hr/> |
| | \$29,907 31 |

In all other respects the original order shall remain in effect.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1913.

DECISION No. 1109.

EDMOND THOMAS DOOLEY, EMIL JULES GREBS, AND
OTHER PROPERTY OWNERS IN HOPKINS TERRACE
NO. 4, BERKELEY,

vs.

PEOPLES WATER COMPANY.

Case No. 442.

Decided December 3, 1913.

Held, Jurisdiction of Commission to compel extensions of water utilities defined.
Held, Defendant directed to install a water main in Keith avenue, Berkeley, in order
to serve complainants.

Edmond Thomas Dooley, Emil Jules Grebs, in propria persona, and
for certain other property owners in Hopkins Terrace No. 4, Berkeley.
McKee & Tashcira and Arthur Tashcira, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This action was brought to compel the Peoples Water Company to supply water to that portion of the city of Berkeley which is known as Hopkins Terrace No. 4.

The complaint alleges, in effect, that the complainants are residents and property owners in a certain tract within the limits of the city of Berkeley, known as Hopkins Terrace No. 4; that in no portion of the tract except the southwest corner thereof has the Peoples Water Company laid any water mains; that the residents of Dooley, Fairbanks, Manchester and Britton are inadequately supplied with water through privately owned pipe lines; that the residence of Mr. Grebs is without any supply of water; and that the development of the tract has been held back for eight years through the failure of a satisfactory water supply. The complainants ask that the defendant be compelled to supply water to this tract.

The answer alleges, in effect, that every resident of Hopkins Terrace No. 4 who has applied for water is being supplied by defendant, except Mr. Grebs, who is being supplied from Mr. Dooley's supply; that the residences of Mr. Manchester and Mr. Britton are adequately and sufficiently supplied by defendant; that Mr. Fairbanks has never made application; that since January, 1909, defendant has been supplying Mr. Dooley with water from the terminus of its main located at the southern end of Keith avenue, distant about 100 feet from the northerly end of Shasta street, in Hopkins Terrace No. 4; that defendant has

offered to extend a 2-inch main from Keith avenue to Mr. Dooley's residence, provided he could secure a right of way for the same, but that such right of way has not been secured; that defendant has offered to construct a main from a point in Tamalpais street northerly to the residences of Mr. Grebs and Mr. Dooley if they would pay the sum of \$60.00, which sum would be returned to them at the rate of \$20.00 for every connection made from the extension; that defendant is ready and willing to furnish a water supply to Mr. Dooley and Mr. Grebs, either upon being paid for said extension on Tamalpais street or upon being supplied with a right of way from Keith avenue to Shasta street; that the city of Berkeley is about to extend Keith avenue to Shasta street, whereupon the extension of defendant's main to the residences of Mr. Grebs and Mr. Dooley will be made without charge; and that Hopkins Terrace No. 4 is sparsely settled, and that it is impossible for defendant to extend its mains thereon to isolated houses and for considerable distances without being paid for such extensions, but that defendant is ready at all times, upon being paid for such extensions, to make the same and to agree to rebate such payment by crediting certain amounts for each subsequent connection.

The hearing in this case was held in San Francisco on November 18, 1913. The case has been submitted and is now ready for decision.

The tract known as Hopkins Terrace No. 4 is located on the foothills in the northeasterly portion of Berkeley, entirely within the city limits. Its southerly boundary is Rose street. Two streets, known as Tamalpais street and Shasta street, wind in a general northerly and southerly direction through the tract. These streets are connected near their northerly ends by a street known as Tallac street, running in a northwesterly and southeasterly direction. At the time the complaint was filed, a street known as Keith avenue ended some 100 to 150 feet northeast of Shasta street, outside of the limits of this tract. Although proceedings have been taken to extend Keith avenue across the intervening private land, so as to form an extension of Shasta street, these proceedings had not been concluded at the time the complaint was filed. The general body of the tract is about 1,280 feet long in a direct north and south line and about 640 feet wide in a direct east and west line. The tract, however, lies in a general northwesterly and southeasterly direction, and has a length of about 1,440 feet along its northwesterly and southeasterly axis, and a width of about 560 feet along its northeasterly and southwesterly axis.

The Peoples Water Company is the only water utility serving the inhabitants of Berkeley. This company has a 2-inch main lying along Rose street and an extension thereof running some 300 feet up Tamalpais street, with a branch running from this extension not over 200 feet easterly along Shasta street. The company also has a 2-inch main

lying on Keith avenue and running to the southerly end thereof. The company has laid no mains in the tract other than the short main up Tamalpais street and the extension on Shasta street hereinbefore referred to.

The testimony shows the following facts with reference to the present users of water on the remaining portions of this tract:

Mr. G. P. Manchester lives at No. 2655 Shasta street. His property is served with water from a tap in the Rose street main through a half-inch pipe, which Mr. Manchester constructed at his own expense a distance of some 200 feet from the main, partly over private property on the surface of the ground, under a revocable permit from the owner of the land, and partly across Shasta street, without any permit from the city authorities. The evidence shows that the Peoples Water Company refused to lay a main to the property unless Mr. Manchester paid for the extension and that the present private pipe line is only a temporary expedient. While the evidence shows that Mr. Manchester is at present receiving an adequate supply of water, he is fearful that when the cold weather sets in the temporary pipe line may burst, as was the case last winter with Mr. Dooley's line, to which reference will hereinafter be made. From Mr. Manchester's supply, water is taken to irrigate a few trees planted on the three adjoining lots to the west, being lots 27, 28 and 29, in block 4.

Mr. Claire Britton lives on Shasta street, some 95 or 96 feet northerly from Mr. Manchester's property. The Peoples Water Company also refused to build a main to this property unless Mr. Britton would pay for the extension. Mr. Britton accordingly built a private pipe line from a tap in the Rose street main, partly over private property under a revocable permit, if any was secured, and partly over Shasta street without permit from the city authorities. The total length of this line is about 500 feet. The testimony shows that this line is laid mostly along the surface of the ground and that it is only a temporary expedient. The testimony shows that during the summer time the water delivered through it is warm and that there is considerable danger that in the winter time the pipe will burst.

Mr. E. T. Dooley lives on lot 5, block 2, at the intersection of Shasta street and Tallac street. In order to secure water it was necessary for him to build a private pipe line northerly along Shasta street and thence across private property to a connection with the end of the Peoples Water Company's 2-inch main lying on Keith avenue. Mr. Dooley testified that the service through this pipe line is not satisfactory in so far as affects the use of water in the second story of his residence, and that when Mr. Grebs takes water from the line, as hereinafter indicated, there is no water at all upstairs in Mr. Dooley's house.

Mr. E. J. Grebs has just completed a house on lot 28 in block 1,

near the head of Tamalpais street. He secures his water from a connection with Mr. Dooley's private pipe line by means of a half-inch pipe line laid partly over private property and partly along Tamalpais street. Mr. Dooley permitted him to make this connection for the reason that there was no other way in which Mr. Grebs could secure water except by paying the defendant for an extension, which the complainants claim the defendant ought to make at its own expense.

Mr. H. W. Fairbanks owns lots 30, 31 and 32 in block 1, and lot 3 in block 2, all facing the upper end of Tamalpais street. Mr. Fairbanks has a private supply of water through a pumping plant pumping water from a creek. Mr. Dooley has permitted him to take water from his private pipe line to a tank located on lot 3 of block 2, from which tank Mr. Fairbanks draws in case his pumping plant is not in operation or breaks down. There is no satisfactory evidence that Mr. Fairbanks has ever made a demand upon the defendant for a service connection. Two houses are located on the Fairbanks property.

The owners of land in this tract, particularly Mr. Dooley and Mr. Grebs, have frequently tried to induce the Peoples Water Company to build its mains into the tract and to serve them through permanent pipe lines. The company has offered to extend its mains, but only under either one of two conditions. The first condition was that the property owners should secure for the company the right of way for a water pipe from the southerly end of Keith avenue to the northerly end of Shasta street, whereupon the water company agreed that it would construct a 2-inch main to the property of Mr. Dooley and Mr. Grebs, free of charge. The company, however, has refused to agree to serve any one else unless payments were made for extensions to this line. The other proposition is one which has been made in varying forms to different property owners, but which contemplates the payment by the owners for the necessary extensions to their property, with certain rebates for each new connection from such extension. The usual offer has been to extend upon the payment by the property owner of 25 cents for each foot of 2-inch main involved in the extension, with a promise to rebate to the property owner in the amount of \$25.00 for each service connection thereafter to be made from such extension. The company offered to extend a 2-inch main in Tamalpais street from the Rose street main to the residences of Mr. Grebs and Mr. Dooley for \$60.00, and to the residence of Mr. Grebs alone for \$85.00, with an agreement to rebate in the amount of \$25.00 for each subsequent service connection from the extension. Mr. Dooley and Mr. Grebs refused the second proposition on the ground that it was the duty of the water company to make the extension at its own expense. With reference to the first proposition, these gentlemen appeared before the city council of Berkeley and induced the council to adopt the necessary resolutions for the extension

of Keith avenue across the intervening private property to connect with Shasta street, so that the water main could be laid over this extension to serve the tract. The report of the Commissioner of Public Works of assessments and damages was approved and confirmed by the city council on October 21, 1913. An assessment district was regularly formed and the cost of the extension, amounting to \$1,750.00, was assessed on that portion of the tract which it was thought could advantageously be served with water from the Keith avenue main, if extended. The evidence shows that each lot in this district was assessed for between \$10.00 and \$70.00. While the Peoples Water Company did not hold out the promise that it would serve the entire tract without charge for extensions if Keith avenue were opened, there is no doubt that the hope of being served with water is responsible for the opening of Keith avenue and for the payment by the lot owners of the assessment for that purpose.

The Keith avenue main is fed from the Summit reservoir, having an elevation of some 800 feet and a capacity of thirty-six million gallons. All parties agree that the Keith avenue extension is far preferable to a connection with the Rose street main as the most efficient way of serving the tract. The water company has agreed that as soon as it can lawfully lay its mains along the extension of Keith avenue, it will build the extension to the residences of Mr. Dooley and Mr. Grebs, without charge. Mr. C. D. Maloney, the Berkeley manager of the defendant, testified that this could be done by simply securing the usual permit for the tearing up of the streets. The defendant makes no point that it can not go ahead without securing some additional franchises, so that the difficulties which confronted the Court of Appeal in the case of *Luk-rawka vs. Spring Valley Water Company*, 15 Cal. App. Dec., advanced sheets, page 793, are not present in this case.

While the problem will thus be solved with reference to Mr. Dooley and Mr. Grebs, it will remain unsolved in so far as affects Mr. Britton and Mr. Manchester and the remaining property owners on the tract, unless they are willing to pay for the extensions of the mains. Both Mr. Britton and Mr. Manchester own residences on the tract and desire a permanent supply of water, but are unwilling to pay for the extensions on the ground that it is the duty of the water company to install them at its own expense. The defendant has offered to extend its mains to them from the nearest available source in accordance with a purported rule or regulation under which such extensions are claimed to be made only on the payment by the property owner of 25 cents per foot for each foot of 2-inch main, with a rebate of \$25.00 for each new service from the extension.

The Commission paid some attention at the hearing to this alleged rule or regulation. The defendant's attorney stated that this was more

in the nature of a custom than of an established rule or regulation. The Commission tried to ascertain the specific circumstances under which this rule, regulation or custom is applied by the defendant, but was not entirely successful, for the reason that the defendant itself apparently can not say definitely when it will demand payment for an extension and when it will install the extension at its own expense. It appeared that among the other elements considered by the company in this connection are the length of the extension, the density of population, and the physical conditions of the territory. It appears that if the extension is a long one or the territory is sparsely settled or the physical conditions are difficult, the company is more likely to claim payment for the extension than in other cases. It appears also that it is more likely to claim the payment in the case of a new tract than otherwise. That this rule, regulation or custom is not definitely established is shown in the case of this very tract, for the reason that the defendant offered to build an extension of a main up Tamalpais street, a distance of some 1,010.15 feet, to serve Mr. Grebs, for the sum of \$85.00 instead of the sum of \$505.00 which would be the charge if this rule, regulation or custom were enforced. That this rule, regulation or custom, whatever it may be, is vague, uncertain, likely to result in discrimination as between different individuals and different lots or blocks, and so uncertain in its application as very likely to result in friction, seems clear. This is true even though the water company tries to act with a desire to do what from its point of view will be fair and equitable in each individual case.

I shall now address myself to the question whether, assuming that the defendant has some rule, regulation or custom, any public authority can compel the company to extend its mains in any case in which it is unwilling to do so at its own expense, and to the further question whether, in case such power exists, it should be exercised in this case.

Before examining section 23 of article XII of the constitution of this State, as amended on October 10, 1911, and the statutes which have been passed in pursuance thereof, I shall first consider the general law applicable to the question of the service connections and extensions of water companies, apart from such power as may have been granted to public authorities in this State to compel such connections or such extensions.

The question of the duty of a water utility to serve the inhabitants of cities and towns has most frequently come to the courts in cases in which persons owning or occupying property fronting on a street in which a water main had already been laid, have desired a service connection which the water company has refused to make unless the applicant paid a certain sum for the connection and the meter. The overwhelming weight of authority is to the effect that it is the duty of

the water company to make such connection and install the meter at its own expense. This expense then becomes a part of the moneys properly chargeable to capital account and necessary to be considered by public authorities in establishing rates for water service.

The problem, in so far as it affects the case of the meter, is solved by the Supreme Court of this State in the case of *Spring Valley Water Works vs. City and County of San Francisco*, 82 Cal. 286. This was an action to set aside and declare void an ordinance of the city and county of San Francisco establishing water rates for the year commencing July 1, 1889. Referring to the question of meter installation, the court, at page 316, said:

"It is also contended that the requirement that meters shall be furnished by the plaintiff (water company) is unreasonable and can not be enforced, but we think otherwise. The requirement that the party furnishing water shall provide the means necessary for its measurement, so that the quantity furnished and to be paid for may be known, is not an unreasonable requirement."

The court then reaches the following conclusion:

"The expense of the meter could not be imposed on the consumer (*Red Star Steamship Company vs. Jersey City*, 45 N. J. L. 246)."

The same conclusion would seem logically to follow with reference to the service connection to the property line. The service connection is just as necessary to enable the company to "furnish water to the inhabitants" as provided by section 549 of the Civil Code, as is the main on one end of the connection and the meter on the other.

The same conclusion is reached by the United States Circuit Court for the Southern District of California in the case of *Lanning vs. Osborne*, 76 Fed. 319, in which case Judge Ross, at page 333, after referring to certain decisions of the Supreme Court of this State, says:

"It is impossible to reconcile the declarations of the Supreme Court of California in either of the two cases last referred to or in any other case to which my attention has been called with a right on the part of any corporation appropriating water under and by virtue of the constitution and laws of California for sale, rental or distribution, to exact any sum of money or other things, in addition to the legally established rates as a condition upon which it will furnish to consumers water so appropriated."

While the immediate matter before Judge Ross was the imposition of the charge for a water right, the reason which underlies his decision applies equally to any other charge which a water utility might desire to impose in addition to the legally established rates for the water supplied.

In other states in which the courts have been called upon to pass upon this question, they have concluded with practical unanimity that it is the duty of the water utility to install at its own expense both

the meter and the service connection. A typical case is *Bothwell vs. Consumers Company*, 13 Idaho, 568, 92 Pac. 533. In that case, a property owner in Cœur d'Alene applied for a writ of mandamus to compel a water utility to tap its main and to connect with the plaintiff's water pipes at his property line. The court below sustained the defendant's demurrer and dismissed the case. The Supreme Court of Idaho thereafter held that such action was error and reversed the decision of the lower court. At page 534 of the Reporter, the Supreme Court says:

"The only further point to be considered in this case is whether the water company can require the consumer to pay for the tap and for making the connection with its main. It seems that this point ought to be disposed of without much difficulty. The franchise for laying pipes in the streets and alleys and maintaining and operating a water system is granted by the municipality to the water company. The property owner has no right or franchise to dig in the streets and alleys and lay pipes, and, if he should do so, he would acquire no property right therein. The mains and all the laterals, fixtures, and connections within the franchise limit (i. e., within the street limit) belong to the company, and together constitute the water system."

The court then continues:

"It is not the business of the citizen or consumer to construct any part of the company's system, nor is it the company's business to place the pipes and fixtures on the consumer's premises: There is a clearly and well defined boundary line existing between the property of the water company and the property of the lot owner—that line is the one existing between the lot and the street or alley. The citizen owns his pipes and fixtures to that line, and beyond it is the company's property and water system. The rights, duties and obligations of each go to this extent, and no further. The company in the enjoyment of its franchise privileges is placed by the constitution under a public duty to supply water to all living within the franchise limits, on payment of the rental rates * * *. Water rates are established and collected in order to compensate the company for its investment, and it can not be allowed, in addition to these rates, to require a citizen to pay for a part of its system before supplying him with water."

In the following cases in other states, the courts have held that it is the duty of a water utility serving a city or town to install service connections or meters or both, as the case may be, at its own expense:

City of Montgomery vs. McDade (Ala.), 60 So. 798;

Pine Bluff Corporation vs. Toney, 96 Ark. 345, 131 S. W. 680;

Pocatello Water Company vs. Standley, 7 Idaho, 155, 61 Pac. 518;

Hatch vs. Consumers' Company, 17 Idaho, 204, 104 Pac. 670;

State, Red Star Line Steamship Co., prosecutors, vs. Mayor and Aldermen of Jersey City, 45 N. J. L. 246;

Griffin vs. Goldsboro Water Co., 122 N. C. 206, 30 S. E. 319;
Haugen vs. Albina Light and Water Co., 21 Or. 411, 28 Pac. 244;
International Water Company vs. City of El Paso, 51 Tex. Civ.
 App. 321, 112 S. W. 816;
Cleveland vs. Malden Water Company, 69 Wash. 541, 125 Pac. 769;
State ex rel. Hodgdon vs. Hoquiam Water Company, 70 Wash. 682,
 127 Pac. 304.

The principle established by the foregoing cases has been applied by this Commission in a number of cases, including Case No. 365, *City of Glendale vs. Title Guarantee and Trust Company, Trustee*, and Case No. 363, *City of Glendale vs. Miradero Water Company*, both decided on June 11, 1913, which two cases are now pending on review before the Supreme Court of this State.

I shall now address myself to the question of the extension of mains to serve additional customers as distinguished from a service connection from an existing main.

Section 549 of the Civil Code of this State reads in part as follows:

“All corporations formed to supply water to cities or towns must furnish fresh pure water to the inhabitants thereof, for family uses so long as the supply permits, at reasonable rates and without distinction of persons, upon proper demand therefor; and must furnish water to the extent of their means in case of fire or other great necessity, free of charge.”

This section makes it the affirmative duty of a water utility in this State to furnish water to the inhabitants of a city or town in which it supplies water. It is not sufficient that the utility should have water in its mains. The code provides that it is its duty to furnish water to the inhabitants. It seems clear, under the provisions of this section, that it is in general the duty of a water utility actually to supply the water to the customer at his property line. This is a duty which a water utility undertakes when it accepts its franchise from the State or any political subdivision thereof, and which under such franchise it must perform.

The question of the duty of a water utility to extend its mains within a city or town came before the Court of Appeal of the First District in this State in *Lukrawka vs. Spring Valley Water Company*, 15 Cal. App. Dec., advanced sheets, page 793. This was an action in mandamus to compel the water company to extend its water mains some 2,000 feet in the city and county of San Francisco, to supply petitioners with water. The judgment of the Superior Court sustaining a demurrer to the first amended complaint was affirmed on the ground that under the provisions of section 19 of article XI of the constitution of this State, as amended on October 10, 1911, and the decision of the Supreme Court of this State in *Ex parte Russell*, 163 Cal. 668, interpreting this section,

as amended, the water company had no right to make an extension unless it had first complied with an ordinance of the city and county of San Francisco enacted under said constitutional provision, and establishing certain requirements before any public utility could further extend its mains, wires or conduits in the city and county of San Francisco. This particular difficulty is not present in the case now under consideration. Referring to the duty of a water company, apart from such constitutional provision and ordinance, to make extensions of its mains within the city limits, the court says, at page 798:

“Upon a review and a careful consideration of all of the authorities bearing directly and indirectly upon the subject under discussion, we are strongly of the opinion that it is the law that a water company, committed by its charter to the public service, is in duty bound to serve the whole public; and that when necessary to such service the company's existing mains must be gradually extended so as to keep pace with the growth of the community which the company has undertaken to serve.”

A similar conclusion was reached by the Supreme Court of Idaho in *Pocatello Water Company vs. Standley*, 7 Idaho, 155, 61 Pac. 518, and by the Appellate Court of Pennsylvania in the case of *Hyndman Water Company vs. Hyndman*, 7 Pa. Sup. Ct. Rep. 191.

It may be that cases will occur in which it would not be fair either to the water utility or to its existing consumers to apply this rule strictly. For instance, a proposed customer may live so far from the existing main or his land may be so difficult of access or it may be necessary to install such additional machinery to pump water to his property that the detriment to the utility itself and to its existing customers resulting from the large expenditure necessary to be made would be such as to outweigh the advantage to the individual customer and such as to make it fair to ask that the customer should himself pay for all or a part of the necessary extension or increase in machinery. In other words, it may well be that the foregoing rule should not be rigidly applied in a case in which a considerable burden would be cast upon the remaining consumers in order to serve one or more intending consumers. While there may be difficulties in the application of this general rule, I am of the opinion that the rule is correct as a general principle and that it should be applied in all cases in which an exception is not clearly established. If the water utility, in reaching its conclusion as to whether or not the rule should be applied in a particular case, reaches a decision which does not seem equitable to the intending customer, there should be some public authority with the right to pass on the question and to say whether or not the course which the utility desires to adopt is a proper one. As I shall now show, the power to take such action has been vested by the people of this State in the Railroad Commission, except in those few cases in which the legislature of

this State has granted such power to incorporated cities and towns under their freeholders' charters.

I shall now consider what public authority, if any, has the power to compel an extension in the present case.

Section 23 of article XII of the constitution of this State, as amended on October 10, 1911, after defining the classes of corporations, associations and persons who should be known as public utilities, and after conferring upon the legislature the power to confer upon the Railroad Commission such jurisdiction to supervise and regulate such public utilities as the legislature might desire to confer, provides, in effect, that the Railroad Commission shall have the right to exercise all its jurisdiction so to be conferred upon it by the legislature, with the exception that the incorporated cities and towns of the State shall retain the powers over public utilities which might be vested in them on the effective date of such legislation as might be so enacted, with the privilege of thereafter voting to confer such powers upon the Railroad Commission. In considering whether the power to compel a water company to build an extension has ever been vested in the city of Berkeley, it is necessary to consider both constitutional and statutory provisions. It appears that nowhere in the constitution is there any provision specifically conferring upon any political subdivision of the State the power to compel any public utility to make an extension. Nor is there any statutory provision conferring such power, apart from a few acts of the legislature granting freeholders' charters. The city of Berkeley operates under a freeholders' charter, but under this charter it is granted simply the power to establish the rates and to prescribe the quality of the service of public utilities (art. 8, sec. 49, subd. 49). No power to compel an extension is granted directly or by necessary inference. It follows that such power, if it exists in any public authority in this State, vests in the Railroad Commission.

I shall now consider the appropriate constitutional and statutory provisions bearing on the question whether this power vests in the Railroad Commission.

As hereinbefore stated, section 23 of article XII of the constitution of this State, as amended on October 10, 1911, conferred upon the legislature the right to grant such powers as the legislature might choose to confer upon the Railroad Commission in the matter of supervision and regulation of public utilities. In pursuance of this power, the legislature of this State enacted the Public Utilities Act, approved December 23, 1911, and effective March 23, 1912. This act contains, among others, the following provisions bearing upon this question:

"SEC. 13. * * * (c) All rules and regulations made by a public utility affecting or pertaining to its charges or services to the public shall be just and reasonable."

"SEC. 30. Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees."

"SEC. 31. The railroad commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in the state and to do all things, whether herein specifically designated or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."

"SEC. 35. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rules, regulations, practices, equipment, appliances, facilities or service of any public utility, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed and shall fix the same by its order, rule or regulation. The commission shall prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility, and, on proper demand and tender of rates, such public utility shall furnish such commodity or render such service within the time and upon the conditions provided in such rules."

I desire to draw particular attention to section 36, specifically conferring the power to compel the construction of additions and extensions where they ought reasonably to be made, and reading in part as follows:

"SEC. 36. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If the commission orders the erection of a new structure, it may also fix the site thereof. * * *"

The legislature of 1913 enacted the act approved April 25, 1913, effective August 10, 1913, known as chapter 80 of the Laws of 1913, and appearing on page 84 of the Statutes of 1913, providing for the regulation of water companies, defining their powers and duties and

defining the powers and duties of the Railroad Commission with reference thereto. Section 5 of this act provides in part as follows:

“The commission shall likewise have the power after a hearing upon its own motion or upon complaint, to require any such water company to allow additional consumers to be served when it shall appear that to supply such additional consumers will not withdraw the supply wholly or in part from those who theretofore had been supplied by such public utility.”

I think it must be clear that under these constitutional and statutory provisions, the Railroad Commission has the power in a proper case, after notice and hearing, to compel a water utility to extend its mains at its own expense in all territory in this State other than incorporated cities and towns in which this power may vest by virtue of specific provisions of their freeholders' charters. That a public utility is subject to regulations of this character, even though such regulations may be enacted after it has commenced its service, is clearly established by a long line of decisions, beginning with the leading case of *Munn vs. Illinois*, 94 U. S. 113. It is well established by these cases that when the owner of property devotes it to a use in which the public has an interest he must, to the extent of the interest thus acquired by the public, submit to the control of such property by the public for the common good.

The only remaining question in this case is whether the present case is a proper one for the exercise of the Railroad Commission's power in the premises. Mr. Britton and Mr. Manchester are demanding extensions and the defendant has refused to make them unless these gentlemen pay for the extension. While it is true that these gentlemen are at present being served with water from the Rose street main of the Peoples Water Company, I find as a fact that this service is only temporary in character, that there is danger that the private pipe lines through which the service is being made may burst in the winter time and that the service is not a reasonable or satisfactory permanent service. If it is reasonable for the water company to extend its mains to serve Mr. Britton and Mr. Manchester, it seems unreasonable to say that the construction by these gentlemen of a temporary pipe line as the only means of securing water, by reason of the water company's fault, should now bar these gentlemen from the relief to which they otherwise would have been entitled. When the Keith avenue main has been extended to Mr. Dooley's property, an extension of some 400 feet down Shasta street will suffice to serve Mr. Britton and an additional extension of 150 feet or thereabouts would suffice to serve Mr. Manchester. It should be remembered that this tract is a portion of the city of Berkeley, that its entire extent is small and that the water company is serving territory both to the north and to the south thereof, and is already serving the southwestern portion of the tract.

After a careful consideration of all the facts of this case, I find that it is not a proper case for the establishment of an exception to the general rule obligating a water utility to make the necessary extensions to serve the inhabitants of a city or town in which it is operating. I find that the extensions to the premises of Mr. Britton and Mr. Manchester ought reasonably to be made at the water company's own expense and shall so recommend in the order.

I have considered the questions of law involved in this case somewhat more fully than would ordinarily be done, for the reason that considerable uncertainty and confusion seems to exist with reference to the duty of utilities to make extensions in this State and the power of this Commission to compel such extensions in case the utility refuses to make them at its own expense. I am of the opinion that the doubt which may exist with reference to a particular case will be largely removed if the following propositions are clearly borne in mind:

1. As a general rule, it is the duty of a water utility in this State to install, at its own expense, such extensions to its mains as may be necessary to serve the inhabitants of any community which it is serving.

2. While it may be that in certain cases exceptions to this rule may be established in the first instance by the utility, the justification for the exception must be clear and the exception must not result in discrimination.

3. Any rule, regulation or custom which the utility may establish in this connection is subject to alteration or amendment by the Railroad Commission in all portions of this State other than those where incorporated cities and towns may, under their freeholders' charters, have power over public utility extensions vested in them, and in all such territory, the Railroad Commission has the power, when an extension ought reasonably to be made, to compel such extension, both within and without city limits, after notice and hearing, in such manner and within such time as the Railroad Commission may in its order specify.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the same having been submitted and being now ready for decision, **The Railroad Commission hereby finds as a fact that an extension of the water mains of the Peoples Water Company ought reasonably to be made by said company, at its own expense, to the property of Dooley, Grebs, Britton and Manchester, in Hopkins Terrace No. 4, in the city of Berkeley, California.**

Basing its order upon the foregoing finding of fact and on the additional findings which are contained in the opinion which precedes this order,

It is hereby ordered that Peoples Water Company be and the same is hereby directed, as soon as the city authorities of Berkeley will permit the use of the extension of Keith avenue for the purpose of installing a water main thereon, to extend, with reasonable diligence, a water main having a diameter of at least two (2) inches, from the end of the present water main in Keith avenue, to serve the premises of Dooley, Grebs, Britton, and Manchester, in said Hopkins Terrace No. 4, and thereafter to serve them with water at the regular rates without additional expense. The cost of such extension will be a proper capital expenditure and should be considered by the appropriate public authority in establishing the rates to be charged by defendant for water supplied in the city of Berkeley.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1913.

DECISION No. 1110.

IN THE MATTER OF THE APPLICATION OF NORTH COAST
WATER COMPANY FOR AUTHORITY TO INCREASE THE
RATES FOR WATER CHARGED TO BELVEDERE LAND
COMPANY.

Application No. 624.

Decided December 3, 1913.

Held, Application for increase in rates for water charged to Belvedere Land Company from 20 cents per 1,000 gallons to 24 cents per 1,000 gallons, dismissed.

Raymond Benjamin, for Applicant.

Powell & Dow and *W. A. Dow*, for Belvedere Land Company.

J. S. Hutchinson, for Town of Belvedere.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for authority to increase the rate charged by applicant to Belvedere Land Company for water delivered to the latter company at or near the point on the boundary line of the town of Mill Valley where the County Road crosses Blythedale avenue. The present rate is 20 cents per 1,000 gallons. The petition in this proceeding originally asked that this rate be raised to 29 cents per 1,000 gallons.

but at the hearing the applicant asked that the petition be amended so as to ask for 24 cents per 1,000 gallons. In view of the fact that the town of Belvedere, which is supplied with water by the Belvedere Land Company, has heretofore established the rates to be charged by that company for water for the year ending June 1, 1914, applicant stipulated that if an order is entered authorizing it to increase its charge for water delivered to Belvedere Land Company, such order shall not become effective until July 1, 1914, or until this Commission, if it is called upon to act, should establish a rate, prior to said date, for water delivered to the inhabitants of Belvedere.

The applicant secures its water from various small streams and creeks in the watershed on the southerly and easterly flanks of Mount Tamalpais, in Marin County. This watershed is divided by a ridge running in a general north and south direction, and called Mine Ridge. The watershed on the east side of this ridge produces a part of the water consumed in Mill Valley and vicinity. No portion of this water is furnished to the Belvedere Land Company. It accordingly becomes unnecessary on this hearing to consider this portion of the applicant's watershed.

The water developed in applicant's watershed west of the Mine Ridge is conveyed by pipe line from small masonry checks or intakes, in four small creeks, known as Rattlesnake Creek, Spike Buck Creek and the west and north forks of Laguna Creek. This pipe line consists mainly of 8-inch riveted steel and conveys the water a distance of about two miles easterly to the Belvedere reservoir, which is located on a hill west from Mill Valley. This reservoir consists of an indentation in the hills in which water is stored by means of two riprap earthen dams with clay puddle cores. Its maximum water surface is about 37,000 square feet and its maximum capacity about ten million gallons. The water is conveyed from the reservoir through a 6-inch converse pipe to the aforesaid point of delivery to the Belvedere Land Company, where it runs through a 4-inch meter into a 4-inch converse pipe, which then conveys it for use to the inhabitants of Belvedere. The pipe line between the dam and the boundary line of the town of Mill Valley where the county road crosses Blythedale avenue was constructed by the applicant at its own expense, but the remainder of the line leading to Belvedere was constructed by and is the property of the Belvedere Land Company. The main leading from the dam is tapped at two places, between the dam and the Belvedere meter, and the water from these two taps supplies a portion of the needs of Mill Valley.

Water was first served by applicant to Belvedere Land Company under a contract dated May 13, 1904, which expired on October 15, 1909. The rate specified in the contract is 20 cents per 1,000 gallons. Since its expiration it has been continued in effect by verbal agreement

from time to time and the rate charged is the same as that specified in the contract.

I shall now address myself to the proper value to be assigned to that portion of applicant's property which is used in developing and delivering water to the Belvedere Land Company. The evidence shows that applicant owns a total of some 2,000 acres in this vicinity. The only portion of this land which may properly be chargeable to the service of the Belvedere Land Company lies west of Mine Ridge. Applicant filed as Exhibit "E" in this proceeding, a map prepared by its engineer, showing its water shed lands in Marin County and showing the acreage of these lands from which water is taken to supply in part the Belvedere Land Company. The acreage so ascertained is 589.21. Applicant's president stated that, in his opinion, two additional parcels should be included, one containing 18.67 acres and the other containing 13.35 acres. As both of these parcels are below the point at which the intakes are located, I am of the opinion that they may not properly be considered as being used or useful in the development of applicant's water supply. Mr. James Armstrong, one of the Commission's hydraulic engineers, who prepared a report which was submitted in evidence and to which reference will hereinafter be made, testified that, in his opinion, a considerable portion of the 589.21 acres is not necessary in connection with the development of applicant's water supply, and that accordingly, the amount of land properly chargeable to applicant's water service is considerably less than this acreage.

The evidence shows that applicant purchased its 2,000 acres in July, 1904, from the Mill Valley Water Company, and that it gave in exchange therefor its 4 per cent bonds, amounting to \$140,000.00. The bonds were intended to be exchanged at par. On this basis, the average cost per acre was \$70.00. At the hearing applicant testified that the present average value per acre, exclusive of the reservoir site, is \$150.00, and applicant claimed the right to a return on this basis. This valuation was based on the sale of certain villa site property for \$300.00 per acre, for an offer for one parcel as high as \$500.00 per acre and on the sale of right of way through this tract to the Mount Tamalpais and Muir Woods Railway Company at \$100.00 per acre.

With reference to the remaining property used in whole or in part in the service of the Belvedere Land Company, consisting mainly of the reservoir and the pipe lines leading to and from it to the point of delivery to the Belvedere Land Company, there is but little difference between the engineers with reference to the original cost or the depreciated reproduction value thereof.

The following table shows the original cost of the property and also the estimated depreciated reproduction value, as testified to by applicant's president, Mr. James Newlands, Jr. The table shows first the

property which is devoted to the joint use of Mill Valley and of the Belvedere Land Company, and then the property which is devoted to the exclusive use of the Belvedere Land Company:

Property Devoted to Joint Use of Mill Valley and Belvedere Land Company.

| | Original cost | Depreciated reproduction value |
|---|--------------------|--------------------------------------|
| Watershed, 620 acres..... | \$43,400 00 | \$93,000 00 |
| Reservoir site, 9.91 acres..... | 683 70 | 3,964 00 |
| Pipe lines from intakes to Belvedere dam..... | 11,254 60 | 7,081 86 |
| Belvedere dam | 19,370 90 | 17,046 38 |
| Diverting dams | 400 00 | 328 00 |
| Pipe through dams, fencing, etc..... | 689 88 | 447 24 |
| Lambert meter | 175 00 | 96 25 |
| Total | \$75,984 08 | \$121,963 73 |

Property Devoted to Exclusive Use of Belvedere Land Company.

| | Original cost | Depreciated reproduction value |
|------------------------|-------------------|--------------------------------------|
| 6-inch L. C. pipe..... | \$1,562 39 | \$1,093 67 |
| 4-inch L. C. pipe..... | 3,470 45 | 2,429 33 |
| Total | \$5,032 84 | \$3,523 00 |

The foregoing tables are taken from the evidence of the applicant at the hearing without any change whatsoever. It will be noted that the computation is based on a total of 620 acres of land in the watershed instead of a maximum of 589.21 acres. The computation also accepts applicant's estimate of the value of this land as being \$150.00 per acre and makes no deduction for any portion of this land which is really not used or useful in the production of water. Applicant admitted at the hearing that it would be fair to count in only 7 acres of land instead of 9.91 acres for the reservoir site. It is probable that the Lambert meter which is included under the heading of property devoted to the joint use of Mill Valley and the Belvedere Land Company should be charged entirely to the Belvedere Land Company.

The matter deserving the most serious consideration in the foregoing tabulation is the value assigned to the land. The land which cost \$43,400.00 some nine years ago is now claimed to have a value of \$93,000.00, being more than double the original cost, and a return is asked on what is claimed to be the present value, including what is popularly known as the unearned increment of land. While it is not necessary to decide this point here, for the reasons which will hereinafter appear, I desire at this point to draw attention to this question of the value to be assigned to land in rate fixing inquiries, which question is one of the most important which can possibly arise in a rate fixing inquiry.

This question tests squarely the correctness of the so-called reproduction value or present value theories on the one hand and the original cost or investment theory on the other. In this connection I desire to refer to the language of Mr. Justice Van Fleet in *San Diego Water Company vs. San Diego*, 118 Cal. 556, who expresses what he believes to be the fundamental relationship between the public and a public utility, which is one of principal and agent. At page 570, Mr. Justice Van Fleet says:

“As we have said, it is not the water or the distributing works which the company may be said to own, and the value of which is to be ascertained. *They were acquired and contributed for the use of the public; the public may be said to be the real owner and the company only the agent of the public to administer their use.*”

After referring to the unfairness to the water company of applying the present value or the reproduction value rules in case prices have gone down, Mr. Justice Van Fleet then refers, at page 569, to the injustice to the consumer if he is compelled to pay a higher rate on the ground of an advance in prices. Referring to this point, Mr. Justice Van Fleet says:

“Nor would it, on the other hand, be just to the consumers to require them to pay an enhanced price for the water, on the ground that it would now cost more to construct similar works. Such a contingency may well happen; but to allow an increase of rates for such reason would be to allow the water company to make a profit, not as a reward for its expenditures and services, but for the fortuitous occurrence of a rise in the price of materials or labor. The law does not intend that this business shall be a speculation in which the water company or the consumers shall respectively win or lose upon the casting of a die, and upon the equally unpredictable fluctuations of the markets.”

Mr. Justice Van Fleet then expresses his general conclusions as follows:

“For the money which the company has expended for the public benefit it is to receive a reasonable, and no more than a reasonable, reward. It is to be paid according to what it has done, and not according to what others might conceivably do. In effect, the bargain between the company and the public was made when the water works were constructed, and this matter is to be determined according to the state of things at that time.”

Finally, at page 572, Mr. Justice Van Fleet states the necessary qualification to this rule as follows:

“It should, of course, be said that it does not follow that in every case the company will be entitled to credit for all of its current expenditures, or to receive a compensation based on the entire cost of its works. Reckless and unnecessary expenditures, not legitimately incurred in the actual collection and distribution of the water furnished, or in the acquisition, construction or preservation

of so much of the plant as is necessary for that purpose, cannot be allowed. . . . *It is the money reasonably and properly expended in the acquisition and construction of the works actually and properly in use for that purpose, which constitutes the investment on which the compensation is to be computed.*"

The foregoing conclusion was worked out by Mr. Justice Van Fleet logically and on principle from the fundamental relationship existing between the public and its public utilities. The use of the present value or reproduction value theories does not spring in any way out of that relationship and has no necessary connection with it. As Mr. Justice Van Fleet clearly points out, the use of either the present value or the reproduction value theories may be as clearly unjust to the public utilities on the one hand, in case prices have gone down, as it is to the public on the other hand, in case prices have gone up. In logic and justice, the public utility should receive a return on the moneys reasonably and properly expended in the acquisition and construction of its works actually and properly in use to carry out its agency—no more and no less. If care is exercised in thus ascertaining the valuation on which a return is to be allowed and if a liberal return is then allowed on that basis, as is the practice of the California Commission, the utility will be receiving full justice while the consumer on the other hand will be paying no more than he ought reasonably to be called upon to pay to his agent.

Before leaving this branch of the case, I desire to add the conclusion of Mr. Franklin K. Lane, formerly of the Interstate Commerce Commission, expressed in the *Western Advance* rate case, 20 I. C. C. Rep. 307. Referring to the contention of the Burlington Railroad Company that it was entitled to a return on \$150,000,000.00 of unearned increment of land, Mr. Lane at page 347 says:

"The trend of the highest judicial opinion would indicate that we should accept neither the cost of reproduction, upon which the Burlington's estimate of value is made, nor the capitalization which the Santa Fe accepts as approximate value, nor the price of stocks and bonds in the market, nor yet the original investment alone, as a test of present value for purpose of rate regulation. Perhaps the nearest approximation to the fair standard is that of bona fide investment—the sacrifice made by the owners of the property—considering as part of the investment any shortage of return that there may be in the earlier years of the enterprise. Upon this, taking the life history of the road through a number of years, the promoters are entitled to a reasonable return. This, however, manifestly is limited; for a return should not be given upon wastefulness, mismanagement or poor judgment and always there is present the restriction that no more than a reasonable rate shall be charged."

Without at this time going further into this question and meeting such objections as may be raised to the views taken by Mr. Justice Van Fleet and Mr. Franklin K. Lane, with which views I heartily concur, I shall pass on to the consideration of other features of this application.

As hereinbefore stated and as will hereinafter appear, it is not necessary in this proceeding to pass on the question whether applicant shall be allowed a return on the greatly increased value of its land. Applicant has asked for an increase in rates. In order to decide this application it is necessary simply to ascertain whether such increase is justified without going into the further question of whether or not the present rate is higher than it might reasonably be if the entire situation were investigated with the intention of establishing at this time a rate to be charged by applicant. The following table represents the depreciated reproduction value of the property of the applicant devoted to the joint use of Mill Valley and the Belvedere Land Company and also devoted to the exclusive use of the Belvedere Land Company as estimated by Mr. Armstrong on the basis of 600 acres of land in the watershed at a unit present value of \$150.00 per acre and 7 acres in the reservoir site at a unit present value of \$400.00 per acre:

Property Devoted to the Joint Use of Mill Valley and Belvedere Land Company.

| Item | Quantity | Unit | Depreciated reproduction value |
|---|----------|-------------|--------------------------------|
| <i>Land.</i> | | | |
| Watershed | 600 | acre | \$90,000 00 |
| Reservoir site | 7 | acre | 2,800 00 |
| <i>Pipe lines.</i> | | | |
| 8-inch riveted steel pipe..... | 12,008 | feet | 5,302 14 |
| No. 14 gauge 6-inch riveted steel pipe..... | 2,187 | feet | 1,041 36 |
| 4-inch wrought iron casing..... | 5,082 | feet | 2,051 13 |
| Fittings for above..... | | total | 364 74 |
| <i>Belvedere dam.</i> | | | |
| Earth | 33,100 | cubic yards | 10,048 01 |
| Clay core | 4,500 | cubic yards | 3,903 03 |
| Riprap | 1,217 | cubic yards | 2,638 69 |
| 12-inch wrought iron pipe..... | 30 | feet | 35 46 |
| 10-inch L. C. pipe..... | 360 | feet | 345 91 |
| Fencing* | 1,370 | feet | 74 28 |
| Fittings | | total | 106 20 |
| <i>Miscellaneous.</i> | | | |
| Diverting dams | 4 | each | 299 20 |
| Gate valves | | total | 339 19 |
| | | | \$119,349 34 |

NOTE.—Lands given no overhead charges.

*Fencing quantities cut down to fit reduced reservoir site area.

Property Devoted to Exclusive Use of Belvedere Land Company.

| Item | Quantity | Unit | Depreciated reproduction value |
|---------------------------|----------|-------|--------------------------------|
| 6-inch L. C. pipe..... | 2,300 | feet | \$1,322 35 |
| 4-inch L. C. pipe..... | 7,870 | feet | 2,881 05 |
| Fittings for above..... | | total | 97 71 |
| 4-inch Lambert meter..... | 1 | each | 99 00 |
| | | | \$1,400 11 |

The next question to be considered is to ascertain the proportion of the property devoted to the joint use of Mill Valley and Belvedere Land Company which is properly chargeable to the water delivered to Belvedere Land Company. It is clear that the proper method would be to ascertain the quantity of water which is delivered to the Belvedere Land Company and also the quantity of water which is delivered to Mill Valley through this portion of the system and then apply the ratio thus secured to all the property which is jointly used to serve Mill Valley and the Belvedere Land Company. It is impossible, however, on the evidence in this proceeding, to use this method, for the reason that no record is available showing the amount of water which goes to Mill Valley from the property devoted to this joint use. While meter records show accurately the amount of water delivered to the Belvedere Land Company, no meters have been installed to measure the water which goes to Mill Valley from this portion of the system. In the absence of data on this point both the applicant and this Commission's hydraulic department adopted a method which each declared to be illogical and unsatisfactory. Under this method, the amount of water flowing into the intakes of applicant's pipe line in the territory west of Mine Ridge is first ascertained; estimates are then prepared to show the percentage of this water which is lost between the intakes and the point of ultimate delivery by reason of leakage, evaporation and seepage; the proportion which the water delivered to the Belvedere Land Company—a known quantity—bears to this amount is then ascertained, and this percentage is then applied to the value claimed for the property jointly used in the service to Mill Valley and the Belvedere Land Company. The applicant estimated this percentage to be 28½ per cent, while this Commission's hydraulic department estimated it as 23.4 per cent but used 24 per cent in its computations. That this method of computation is clearly incorrect results from the fact that during the winter months, the amount of water taken in at the intakes is large and the amount consumed is small, while in the summer the amount of water flowing through the pipe line is relatively small and the amount of water consumed relatively high. Consequently, the percentage to be charged to Belvedere Land Company will vary with the season of the year, if this method is pursued, varying from a relatively small per-

Without at this time going further into this question and meeting such objections as may be raised to the views taken by Mr. Justice Van Fleet and Mr. Franklin K. Lane, with which views I heartily concur, I shall pass on to the consideration of other features of this application.

As hereinbefore stated and as will hereinafter appear, it is not necessary in this proceeding to pass on the question whether applicant shall be allowed a return on the greatly increased value of its land. Applicant has asked for an increase in rates. In order to decide this application it is necessary simply to ascertain whether such increase is justified without going into the further question of whether or not the present rate is higher than it might reasonably be if the entire situation were investigated with the intention of establishing at this time a rate to be charged by applicant. The following table represents the depreciated reproduction value of the property of the applicant devoted to the joint use of Mill Valley and the Belvedere Land Company and also devoted to the exclusive use of the Belvedere Land Company as estimated by Mr. Armstrong on the basis of 600 acres of land in the watershed at a unit present value of \$150.00 per acre and 7 acres in the reservoir site at a unit present value of \$400.00 per acre:

Property Devoted to the Joint Use of Mill Valley and Belvedere Land Company.

| Item | Quantity | Unit | Depreciated reproduction value |
|---|----------|-------------|--------------------------------|
| <i>Land.</i> | | | |
| Watershed | 600 | acre | \$90,000 00 |
| Reservoir site | 7 | acre | 2,800 00 |
| <i>Pipe lines.</i> | | | |
| 8-inch riveted steel pipe..... | 12,008 | feet | 5,302 14 |
| No. 14 gauge 6-inch riveted steel pipe..... | 2,187 | feet | 1,041 36 |
| 4-inch wrought iron casing..... | 5,082 | feet | 2,051 13 |
| Fittings for above..... | | total | 364 74 |
| <i>Belvedere dam.</i> | | | |
| Earth | 33,100 | cubic yards | 10,048 01 |
| Clay core | 4,500 | cubic yards | 3,903 03 |
| Riprap | 1,217 | cubic yards | 2,638 69 |
| 12-inch wrought iron pipe..... | 30 | feet | 35 46 |
| 10-inch L. C. pipe..... | 360 | feet | 345 91 |
| Fencing* | 1,370 | feet | 74 28 |
| Fittings | | total | 106 20 |
| <i>Miscellaneous.</i> | | | |
| Diverting dams | 4 | each | 299 20 |
| Gate valves | | total | 339 19 |
| | | | \$119,349 34 |

NOTE.—Lands given no overhead charges.

*Fencing quantities cut down to fit reduced reservoir site area.

Property Devoted to Exclusive Use of Belvedere Land Company.

| Item | Quantity | Unit | Depreciated reproduction value |
|---------------------------|----------|-------|--------------------------------|
| 6-inch L. C. pipe..... | 2,300 | feet | \$1,322 35 |
| 4-inch L. C. pipe..... | 7,870 | feet | 2,881 05 |
| Fittings for above..... | | total | 97 71 |
| 4-inch Lambert meter..... | 1 | each | 99 00 |
| | | | <hr/> \$4,400 11 |

The next question to be considered is to ascertain the proportion of the property devoted to the joint use of Mill Valley and Belvedere Land Company which is properly chargeable to the water delivered to Belvedere Land Company. It is clear that the proper method would be to ascertain the quantity of water which is delivered to the Belvedere Land Company and also the quantity of water which is delivered to Mill Valley through this portion of the system and then apply the ratio thus secured to all the property which is jointly used to serve Mill Valley and the Belvedere Land Company. It is impossible, however, on the evidence in this proceeding, to use this method, for the reason that no record is available showing the amount of water which goes to Mill Valley from the property devoted to this joint use. While meter records show accurately the amount of water delivered to the Belvedere Land Company, no meters have been installed to measure the water which goes to Mill Valley from this portion of the system. In the absence of data on this point both the applicant and this Commission's hydraulic department adopted a method which each declared to be illogical and unsatisfactory. Under this method, the amount of water flowing into the intakes of applicant's pipe line in the territory west of Mine Ridge is first ascertained; estimates are then prepared to show the percentage of this water which is lost between the intakes and the point of ultimate delivery by reason of leakage, evaporation and seepage; the proportion which the water delivered to the Belvedere Land Company—a known quantity—bears to this amount is then ascertained, and this percentage is then applied to the value claimed for the property jointly used in the service to Mill Valley and the Belvedere Land Company. The applicant estimated this percentage to be $28\frac{1}{2}$ per cent, while this Commission's hydraulic department estimated it as 23.4 per cent but used 24 per cent in its computations. That this method of computation is clearly incorrect results from the fact that during the winter months, the amount of water taken in at the intakes is large and the amount consumed is small, while in the summer the amount of water flowing through the pipe line is relatively small and the amount of water consumed relatively high. Consequently, the percentage to be charged to Belvedere Land Company will vary with the season of the year, if this method is pursued, varying from a relatively small per-

centage during the winter months to a relatively high percentage in the summer months. No data is available from which to secure an average percentage on this theory. The applicant and this Commission's hydraulic department agree on two of the three items in the ultimate calculation, viz, the amount of water going into the intakes during certain months in the summer time and the amount of water delivered to the Belvedere Land Company. The difference in their conclusions results from a different estimate of the amount of water chargeable to leakage, evaporation and seepage. The applicant's estimate is based on the calculated loss from these items in certain water delivered through applicant's local distributing system to Mill Valley consumers. Applicant claimed to have found the loss to have been 17 per cent, but then, realizing that this percentage is certainly not correct as applied to the delivery to the Belvedere Land Company, applicant reduces this percentage to 12 per cent, without any basis on which to determine what the reduction, if any, should be from the percentage of loss thus claimed to have been found in Mill Valley. It must be evident that accurate conclusions can not be ascertained on this calculation. This Commission's hydraulic department estimated the loss from leakage, evaporation and seepage, per month, as follows:

| | Gallons |
|--|----------------|
| Transmission losses, estimated at 3 per cent of gross..... | 223,470 |
| Evaporation losses at Belvedere reservoir on basis of $5\frac{1}{2}$ inches per month on 37,000 square feet of exposed water surface..... | 127,000 |
| Seepage loss at Belvedere reservoir, estimated at..... | 100,000 |
| Total losses | 450,470 |

Mr. Armstrong was quite positive that the first two items of this table are approximately correct. He admitted frankly that the item with reference to seepage was a guess but that if more than the amount estimated were lost from seepage, it would exceed a reasonable loss for a domestic reservoir, and decrease the efficiency of the dam. Mr. Armstrong's total, amounting to 450,470 gallons, represents a loss of only about 6 per cent as contrasted with applicant's estimate of 17 per cent for Mill Valley and its allowance of 12 per cent for the whole system.

The following table shows the value of the property employed in the joint use of Mill Valley and the Belvedere Land Company, computed on the different bases and the different percentages hereinbefore referred to:

| | |
|--|-------------|
| 28 $\frac{1}{2}$ per cent on original cost..... | \$21,655 46 |
| 24 per cent on original cost..... | 18,236 18 |
| 28 $\frac{1}{2}$ per cent on applicant's estimated depreciated reproduction value | 34,759 66 |
| 24 per cent on hydraulic department's estimated depreciated reproduction value | 28,643 84 |

Mr. Newlands testified at the hearing that, in his opinion, a return of 7 per cent would be fair. The hydraulic department used 6 per cent. The following tables show the return on the different bases therein appearing:

| | |
|---|-------------|
| 1. Original cost joint property chargeable to Belvedere on 28½ per cent basis ----- | \$21,655 46 |
| Original cost exclusive Belvedere property ----- | 5,032 84 |
| Total ----- | \$26,688 30 |
| 7 per cent on total ----- | \$1,868 18 |
| 6 per cent on total ----- | 1,601 30 |
| 2. Original cost joint property chargeable to Belvedere on 24 per cent basis ----- | \$18,236 18 |
| Original cost exclusive Belvedere ----- | 5,032 84 |
| Total ----- | \$23,269 02 |
| 7 per cent on total ----- | \$1,628 83 |
| 6 per cent on total ----- | 1,396 14 |
| 3. Applicant's estimated depreciated reproduction value joint property chargeable to Belvedere on 28½ per cent basis ----- | \$34,759 66 |
| Applicant's estimated depreciated reproduction value exclusive Belvedere property ----- | 3,523 00 |
| Total ----- | \$38,282 66 |
| 7 per cent on total ----- | \$2,679 79 |
| 6 per cent on total ----- | 2,296 96 |
| 4. Applicant's estimated depreciated reproduction value joint property chargeable to Belvedere on 24 per cent basis ----- | \$20,271 30 |
| Applicant's estimated depreciated reproduction value exclusive Belvedere property ----- | 3,523 00 |
| Total ----- | \$23,794 30 |
| 7 per cent on total ----- | \$2,295 60 |
| 6 per cent on total ----- | 1,967 65 |
| 5. Hydraulic department's estimated depreciated reproduction value joint property chargeable to Belvedere on 28½ per cent basis ----- | \$34,014 56 |
| Hydraulic department's estimated depreciated reproduction value exclusive Belvedere property ----- | 4,400 11 |
| Total ----- | \$38,414 67 |
| 7 per cent on total ----- | \$2,689 03 |
| 6 per cent on total ----- | 2,304 88 |
| 6. Hydraulic department's estimated depreciated reproduction value joint property chargeable to Belvedere on 24 per cent basis ----- | \$28,643 86 |
| Hydraulic department's estimated depreciated reproduction value exclusive Belvedere property ----- | 4,400 11 |
| Total ----- | \$33,043 97 |
| 7 per cent on total ----- | \$2,313 08 |
| 6 per cent on total ----- | 1,982 64 |

Applicant, using the same percentages for depreciation for the different classes of material as that used by the hydraulic department, reaches a total of \$406.94 on the larger estimated value of its property, while the hydraulic department reaches a total of \$352.00. There is also only a slight difference with reference to operating expenses and

taxes properly chargeable to that portion of the joint property which is used in the Belvedere service and that portion which is used exclusively to serve the Belvedere Land Company. The company on its basis estimates a total of \$669.22 for these items and the hydraulic department estimates a total of \$637.17. The above totals depend in part on the total value assigned to the property and in part on the percentages of operating expenses and taxes chargeable in part to Mill Valley and in part to Belvedere. The difference in the estimates is so slight that it will not be advantageous to apply to the item of depreciation and to the item of maintenance and operation and taxes all the different bases hereinbefore used in ascertaining what would be a fair return over and above these items. Suffice it to say that the applicant estimates a total on its higher value and its higher percentage chargeable to Belvedere, for these two items, of \$1,076.16, while the hydraulic department estimates a total of \$989.17.

Applicant has submitted the total annual income derived from the Belvedere Land Company at the rate of 20 cents per 1,000 gallons as follows:

| | | |
|---------|-------|------------|
| 1908 | ----- | \$3,097 55 |
| 1909 | ----- | 3,304 70 |
| 1910 | ----- | 3,017 35 |
| 1911 | ----- | 3,149 25 |
| 1912 | ----- | 3,430 05 |
| Average | ----- | \$3,199 78 |

It appears from the foregoing computations that on each computation based on the original cost of the property, applicant is now receiving a return in excess of that to which it would be entitled if the original cost or investment is used as the basis of return. Again, it appears that on a 6 per cent return, applicant is now receiving more than it is entitled to under four of the six computations hereinbefore given. Taking the 7 per cent return, it appears that applicant is receiving a return greater than that to which it is entitled if the original cost is taken as a basis, although on the depreciated reproduction value theory applicant would be entitled to a greater return, if the hydraulic department's estimate of depreciation, maintenance, operation and taxes is accepted as correct, varying from an additional sum of \$85.00 per year to a maximum additional amount of some \$487.36. But even so, an increased return would be allowable only on the basis of 600 and 620 acres of land, respectively, which amounts are undoubtedly in excess of the amount of land properly chargeable to this public use.

Under all the facts of this case, I am of the opinion that applicant has not made out a case for an increase in its rate charged to the Belvedere Land Company. If the original cost or investment theory, which I

consider to be the correct starting point in all these investigations, is accepted, applicant's return should be reduced. If the depreciated reproduction theory is accepted, while applicant would be entitled to an increase of return on certain of the foregoing computations, it would be denied an increase under others. If applicant desires to make good on a claim to an increased rate, it must establish the facts justifying such claim. In this case, its estimate of 28½ per cent on joint property chargeable to Belvedere is frankly based on a guess with reference to the amount of water lost by transmission, evaporation and seepage. An order authorizing an increase in rates can not be based on such a showing.

I recommend that the application be dismissed, and submit herewith the following form of order:

ORDER.

A public hearing having been held on the above entitled application, and the matter having been submitted and being now ready for decision, and the Railroad Commission finding that applicant has not established a case for an increase in its rates now charged for water delivered to Belvedere Land Company,

It is hereby ordered that said application be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1913.

DECISION No. 1111.

E. TRACY CRANE

vs.

SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS.

Case No. 471.

Decided December 3, 1913.

Held, Defendant ordered to reduce its monthly commutation rate between San Lorenzo and Oakland from \$4.50 to \$4.00 per month.

Herman G. Walker, for Coplainant.

George W. Mordecai and **W. H. Smith,** for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an action to reduce the commutation rate on the line of the defendant railroad company between Oakland and San Lorenzo for one ride each way during every day in the month except Sundays. The complainant asks that this rate be reduced from \$4.50 to \$3.75 per month. The complaint alleges discrimination in favor of Hayward-Oakland and Ashland-Oakland travel and against the San Lorenzo-Oakland travel.

Among its other lines, defendant operates a line of electric railway from Oakland through San Leandro, Ashland and unincorporated territory in Alameda County, to Hayward. At San Lorenzo Junction, on this line, persons traveling to and from San Lorenzo transfer to a narrow gauge line running only between this junction and San Lorenzo. The distance and the rates charged for commutation service for localities in this vicinity and served in whole or in part by this line, are as follows:

| | |
|---|--------|
| Between Twelfth and Broadway, Oakland, and Hayward, 14.6 miles | \$4.00 |
| (Good for one ride in each direction daily except Sunday.) | |
| Between Twelfth and Broadway, Oakland, and Ashland, 11.71 miles | 3.75 |
| (Good for one ride in each direction daily.) | |
| Between Twelfth and Broadway, Oakland, and San Lorenzo, 12.25 miles | 4.50 |
| (Good for one ride in each direction daily.) | |

The distance between Twelfth and Broadway in Oakland and San Lorenzo Junction is 10.49 miles and the distance between San Lorenzo Junction and San Lorenzo is 1.76 miles. The Hayward rate of \$4.00 was established by this Commission by its decision No. 521, on March 24, 1913, in the so-called Hayward cases. The rate of \$3.75 was established by the Commission by its decision No. 1042, dated October 25, 1913, in Case No. 453, *Ramos vs. San Francisco-Oakland Terminal Railways*.

It will be noted that while the distance between Hayward and Twelfth and Broadway, in Oakland, is more than two miles greater than the distance between San Lorenzo and Twelfth and Broadway, in Oakland, the rate is 50 cents less per month to commuters traveling daily except Sunday. In view of the fact that the Hayward and San Lorenzo traffic moves over the same line, in the same cars, for the distance of 10.49 miles between San Lorenzo Junction and Twelfth and Broadway, in Oakland, it would seem that at least a prima facie case of locality discrimination is established. The defendant, however, seeks to justify its claim for a higher rate for the San Lorenzo traffic on the alleged greater expense incurred in operating the narrow gauge line between San Lorenzo Junction and San Lorenzo. This claim was not substantiated by any

evidence introduced at the hearing. It appears, furthermore, that the company itself, before the Public Utilities Act was passed and while the matter of establishing rates was left entirely to the company, did not act on this theory. The evidence shows that the rates which the company voluntarily established, both for commutation and individual travel, were identically the same for the San Lorenzo-Oakland traffic as for the Hayward-Oakland traffic. In other words, at the time when the company established its rates, without any action on the part of any public authority, the company itself voluntarily placed Hayward and San Lorenzo on the same basis and established the same fares for each locality.

While the defendant was proceeding to print its tariffs in accordance with the Commission's decision in the so-called Hayward cases, this Commission's rate department drew the company's attention to the fact that while the San Lorenzo rates were not involved in that decision, complaint would undoubtedly ensue unless the existing commutation rate of \$5.00 were reduced. The company thereupon lowered the rate for calendar month commutation tickets to \$4.50, while at the same time establishing a daily except Sunday rate of \$4.00 for the Hayward traffic. Though this Commission's rate department thereupon drew the company's attention to the discrepancy between the rates so established, the company refused to reduce the San Lorenzo rate to \$4.00, and this proceeding was thereafter brought.

I find that a commutation rate of \$4.50 per month on travel between San Lorenzo and Twelfth and Broadway, in Oakland, for each day of the month establishes a locality discrimination against San Lorenzo and in favor of Hayward, and find that this discrimination should be removed by giving San Lorenzo the same rate as the Hayward rate, viz. an additional rate of \$4.00 per month daily except Sundays.

The evidence in this case shows that at the present time only four commutation books per month are sold by defendant for travel of this character between San Lorenzo and Oakland. The total sum involved in this complaint is \$2.00 per month. It is unfortunate that the defendant did not voluntarily restore the parity between the Hayward and San Lorenzo rates, thereby removing the locality discrimination without the necessity of a formal hearing before this Commission. The Commission's time is already severely taxed by a large number of important matters which constantly demand its attention. While the Commission is always ready—even in a matter of comparatively small importance—to listen to either a public utility or its customers who may think that some demand or position on the part of the other is not

just or reasonable, the Commission expresses the hope that it will become increasingly easier for the parties in such cases to reach a mutually satisfactory conclusion without the necessity of instituting formal proceedings before this commission.

In the present case, the defendant's conduct is at variance with its own former voluntary policy, and it has taken up the Commission's time with a formal proceeding which it should never have been necessary to bring.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the same having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that a monthly commutation rate of \$4.50, good each day in the month in effect between San Lorenzo and Oakland on defendant's line of railway without a monthly commutation rate good each day in the month except Sunday, establishes a discrimination in favor of the Hayward-Oakland commutation travel and against the San Lorenzo-Oakland commutation travel under conditions substantially similar, and that each community is entitled to the same rate, and that defendant should establish a San Lorenzo-Oakland rate of \$4.00 per month good each day in the month except Sunday, which this Commission has heretofore found to be a just and reasonable rate for similar commutation travel between Hayward and Oakland.

Basing its order upon the foregoing finding of fact and on the other findings contained in the opinion which precedes this order,

It is hereby ordered that defendant publish and file, effective January 1, 1914, a rate of four dollars (\$4.00) for monthly commutation tickets between San Lorenzo and Oakland, good each day in the month except Sundays, in other respects to be of the same tenor as the similar four dollars and fifty cent (\$4.50) rate now in effect between said points.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1913.

DECISION No. 1112.

IN THE MATTER OF THE APPLICATION OF GRIFFIN'S
TRANSFER AND STORAGE COMPANY FOR AN ORDER
AUTHORIZING THE ISSUE OF STOCKS AND BONDS.

Application No. 767.

Decided December 5, 1913.

Held, Applicant authorized to issue, subject to certain conditions, stock of the par value of \$72,000.00 and bonds of the face value of \$50,000.00, proceeds to be used for the acquisition of certain property and for improvements thereto.

Frank C. Prescott, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

By an original application and a supplement thereto, we are asked to authorize Griffin's Transfer and Storage Company to issue \$72,000.00 par value of capital stock and \$50,000.00 face value of bonds, divided into bonds of \$100.00 each, with interest at 6 per cent per annum, principal payable September 1, 1933.

Applicant is a California corporation organized in May, 1913, with a capital stock of \$250,000.00, divided into shares of a par value of \$1.00 each.

Among the purposes for which this company was formed, as stated in its articles of incorporation, are the operation of automobile, truck, draying, trucking, baggage, transfer, delivery and other businesses which are not public utilities. But there is also the purpose stated of engaging in the warehouse business in connection with the forwarding of freight, baggage, etc., by common carriers.

Therefore, applicant is within the definition of warehousemen, laid down in the Public Utilities Act, and is subject to the terms of that act wherein it is required that no stocks or bonds may be issued by a public utility without the authorization of the Railroad Commission.

It is proposed to use \$60,000.00 par value of the stock for the purchase of the business of the Motor Transfer Company, a corporation, which business includes a lease on certain described property in Los Angeles; 4,150 shares are to go to G. A. Griffin for certain land, and 8,000 shares are to be purchased at par by employees of applicant, each of whom is to purchase 2,000 shares, and to pay therefor in installments.

Under the rule adopted in the decision in Application No. 311, it is proper to permit the issuance of this stock, notwithstanding that the purposes for which it is to be issued do not fall within the terms of the Public Utilities Act.

The purposes for which the \$50,000.00 face value of bonds are to be issued are the purchase of two 2-ton trucks, three 4-ton trucks, two runabout automobiles, all to cost \$22,000.00; the acquisition of property and the construction, completion, extension and improvement of facilities, \$8,000.00; improvement and maintenance of service, \$5,000.00. The last two items are the only ones which will have to do with the public utility functions of this company, but as the bonds are a lien upon all of the property of the company, I can not escape the conclusion that we should take the same position with regard to all of these bonds, as we do with bonds issued solely upon public utility property, notwithstanding that a large part of the property which is to be acquired with the proceeds of these bonds will not be public utility property.

The item of \$22,000.00 for trucks and automobiles is a reasonable one, but the item of \$8,000.00 for completion, extension and improvement of facilities, and the item of \$5,000.00 for improvement and maintenance of service, are so indefinitely stated and so entirely lack supporting detail as to make it impossible to determine whether or not they should be allowed.

Applicant asked to be allowed to sell these bonds at not less than 65 per cent of their face value, and it is evident that the items set out were made to approximate the proceeds of the bonds to be sold on this basis. However, I think the bonds should not be sold for less than 80 per cent of their face value, which will produce \$7,500.00 more than applicant estimated.

It is clear from the evidence that if sold at 80 per cent of their face value and the proceeds thereof are invested in property which will be covered by the lien of these bonds, there will be a reasonable margin of property, produced through the issuance of the stock herein authorized, between the value of the total property and the face of bonds, in view of which I recommend that this application be granted, subject, however, to the filing by applicant with this Commission of a complete detailed statement and estimate of cost of the use to which the money derived from the sale of said bonds is to be put, other than the \$22,000.00 to be invested in trucks and automobiles.

I submit herewith the following form of order:

ORDER.

Application having been made by Griffin's Transfer and Storage Company for an order authorizing the issue of \$72,000.00 par value of the capital stock and \$50,000.00 face value of its bonds and a public hearing having been held upon said application, and it appearing to the Commission that the purposes for which the proceeds of the issuance of said stock and bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and it appearing

further that said application should be granted with certain conditions attached,

It is hereby ordered by the Railroad Commission of the State of California that Griffin's Transfer and Storage Company is hereby authorized to issue \$72,000.00 par value of its common capital stock and \$50,000.00 face value of bonds, divided into bonds of the face value of \$100.00 each, with interest at 6 per cent per annum, principal payable September 1, 1933, upon the following conditions, not otherwise:

1. Sixty thousand dollars par value of the capital stock shall be issued in exchange for all of the business and assets of Griffin Motor Transfer Company, including a 99-year lease, good will, telephone numbers and all of the property of said Griffin Motor Transfer Company, for a more detailed description of which reference is hereby made to a copy of a trust deed on file herein.

2. Four thousand one hundred and fifty shares of said capital stock shall be issued to G. A. Griffin for that certain real property described as follows:

"Lot five (5) in block two (2) of the Industrial Tract No. 2, subdivision of east 15.79 acres of the south 5 (chs.) chains government lot 1 and north 15.79 acres government lot 2, section 30, 1 south, 4 west, as per plat recorded in Book 17 of Maps, page 40, Records of San Bernardino County, said property being situate in the said county of San Bernardino, State of California, saving and excepting therefrom rights of way for roads and ditches heretofore conveyed, valued at \$500.00, and

"The southwest quarter of the northeast quarter; the northwest quarter of the southeast quarter; the northeast quarter of the southwest quarter, all in section eight (8), township four (4) north, range seventeen (17) west, S. B. M., situate in the county of Los Angeles, State of California, valued at \$5,000.00, less a deed of trust in favor of John A. Pirtle, for \$1,350.00, as hereinafter mentioned."

3. Eight thousand dollars par value of said stock to be sold to the employees of applicant at par, and in installments.

4. The bonds herein authorized shall be issued under the terms of the trust deed, a copy of which is on file herein, and said bonds shall be sold so as to net applicant not less than 80 per cent of face value and accrued interest, and the proceeds from the sale of said bonds shall be used as follows:

(a) Twenty-two thousand dollars thereof shall be used for the purchase of two 2-ton trucks, three 4-ton trucks, two runabout automobiles, as provided in a contract, a copy of which is on file herein. Provided, however, as a condition precedent to the effectiveness of this order and before any of the stocks or bonds herein authorized shall be issued, applicant shall file with this Commission and obtain its approval of, a complete detailed statement and estimate of cost of the property to be

acquired, the service and facilities to be produced or improved and for which the money, other than the \$22,000.00 for trucks and automobiles, which is realized from the sale of said bonds is to be used.

5. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock and said bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock and bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

6. The authority hereby given to issue bonds and stock shall apply only to bonds and stock issued by said company on or before the 1st day of July, 1914.

7. The payment of the fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order in so far as concerns the issue of bonds.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of December, 1913.

DECISION No. 1113.

IN THE MATTER OF THE APPLICATION OF C. A. ERWIN FOR
AUTHORITY TO CONVEY TO WINTERS GAS COMPANY A
GAS FRANCHISE AND OF WINTERS GAS COMPANY FOR
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECES-
SITY AND FOR AN ORDER AUTHORIZING THE ISSUE OF
STOCK.

Application No. 807.

Decided December 5, 1913.

Held, Applicant granted certificate of public convenience and necessity to construct and operate a gas plant in the town of Winters; to issue \$21,300.00 par value of stock, proceeds in the sum of \$19,300.00 to be used for construction purposes and the balance for promotion expenses, of which \$500.00 face value may be issued at the present time and the balance when the gas plant is constructed and in operation.

Wilton J. Phillips, for Applicant.

Guy V. Gibbs, City Attorney, for Town of Winters.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application on the part of C. A. Erwin for authority to assign to Winters Gas Company a certain franchise for the manufacture and delivery of gas in the town of Winters, and on the part of Winters Gas Company for a certificate of public convenience and necessity and for authority to issue its capital stock in the amount of \$25,000.00, as will hereinafter appear in greater detail.

The town of Winters is located in Yolo County, on a branch line operated by the Southern Pacific Company between Elmira and Rumsey. The evidence shows that the town has a population of some two thousand persons. It consists principally of five parallel streets, each of which is about three quarters of a mile long. The testimony shows that there are about two hundred and sixty-nine private houses in the town and about twenty-five business houses. Winters is at present being supplied with electric energy by the Pacific Gas and Electric Company, but is without gas. The testimony shows that the inhabitants are desirous of securing gas and that there is considerable need for this commodity, particularly during the summer months.

On November 11, 1913, the board of trustees of Winters by Ordinance No. 119, granted to C. A. Erwin, his successors and assigns, for the period of twenty-five years, the right to use the public streets, alleys and thoroughfares of the town for the purpose of laying down pipes and conduits therein for the delivery of gas for lighting, heating and other domestic purposes, and also the right to erect within the town a plant for the manufacture of gas. The franchise contains the usual provisions of the Broughton Act with reference to the payment to the town of Winters after five years of 2 per cent annually of the gross annual receipts arising from the operation of the franchise. The ordinance further provides that the main pipes or conduits shall be laid at a depth of not less than twenty-four inches below the level of the street on Railroad avenue and that the lateral mains or conduits in all side streets and alleys shall be laid at a depth of not less than sixteen inches below the level of the streets. The ordinance further provides that the price of gas shall be \$1.50 per thousand feet, with a minimum of 75 cents per month. This latter provision is, of course, subject to change by competent public authority. Mr. Erwin now desires to transfer this franchise, at cost, to Winters Gas Company, which company he has organized for the purpose of taking over the franchise and operating thereunder.

As provided by section 50 of the Public Utilities Act, application has been made for a certificate of public convenience and necessity authorizing the exercise by Winters Gas Company of the rights conferred by the franchise and for authority to construct and operate the plant.

acquired, the service and facilities to be produced or improved and for which the money, other than the \$22,000.00 for trucks and automobiles, which is realized from the sale of said bonds is to be used.

5. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock and said bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock and bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

6. The authority hereby given to issue bonds and stock shall apply only to bonds and stock issued by said company on or before the 1st day of July, 1914.

7. The payment of the fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order in so far as concerns the issue of bonds.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of December, 1913.

DECISION No. 1113.

IN THE MATTER OF THE APPLICATION OF C. A. ERWIN FOR
AUTHORITY TO CONVEY TO WINTERS GAS COMPANY A
GAS FRANCHISE AND OF WINTERS GAS COMPANY FOR
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECES-
SITY AND FOR AN ORDER AUTHORIZING THE ISSUE OF
STOCK.

Application No. 807.

Decided December 5, 1913.

Held, Applicant granted certificate of public convenience and necessity to construct and operate a gas plant in the town of Winters; to issue \$21,300.00 par value of stock, proceeds in the sum of \$19,300.00 to be used for construction purposes and the balance for promotion expenses, of which \$500.00 face value may be issued at the present time and the balance when the gas plant is constructed and in operation.

Welton J. Phillips, for Applicant.

Guy V. Gibbs, City Attorney, for Town of Winters.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application on the part of C. A. Erwin for authority to assign to Winters Gas Company a certain franchise for the manufacture and delivery of gas in the town of Winters, and on the part of Winters Gas Company for a certificate of public convenience and necessity and for authority to issue its capital stock in the amount of \$25,000.00, as will hereinafter appear in greater detail.

The town of Winters is located in Yolo County, on a branch line operated by the Southern Pacific Company between Elmira and Rumsey. The evidence shows that the town has a population of some two thousand persons. It consists principally of five parallel streets, each of which is about three quarters of a mile long. The testimony shows that there are about two hundred and sixty-nine private houses in the town and about twenty-five business houses. Winters is at present being supplied with electric energy by the Pacific Gas and Electric Company, but is without gas. The testimony shows that the inhabitants are desirous of securing gas and that there is considerable need for this commodity, particularly during the summer months.

On November 11, 1913, the board of trustees of Winters by Ordinance No. 119, granted to C. A. Erwin, his successors and assigns, for the period of twenty-five years, the right to use the public streets, alleys and thoroughfares of the town for the purpose of laying down pipes and conduits therein for the delivery of gas for lighting, heating and other domestic purposes, and also the right to erect within the town a plant for the manufacture of gas. The franchise contains the usual provisions of the Broughton Act with reference to the payment to the town of Winters after five years of 2 per cent annually of the gross annual receipts arising from the operation of the franchise. The ordinance further provides that the main pipes or conduits shall be laid at a depth of not less than twenty-four inches below the level of the street on Railroad avenue and that the lateral mains or conduits in all side streets and alleys shall be laid at a depth of not less than sixteen inches below the level of the streets. The ordinance further provides that the price of gas shall be \$1.50 per thousand feet, with a minimum of 75 cents per month. This latter provision is, of course, subject to change by competent public authority. Mr. Erwin now desires to transfer this franchise, at cost, to Winters Gas Company, which company he has organized for the purpose of taking over the franchise and operating thereunder.

As provided by section 50 of the Public Utilities Act, application has been made for a certificate of public convenience and necessity authorizing the exercise by Winters Gas Company of the rights conferred by the franchise and for authority to construct and operate the plant.

Winters Gas Company was incorporated on October 8, 1913. Its articles confer upon the company general power to conduct a public utility business in the manufacture and sale of gas. The amount of capital stock authorized consists of \$50,000.00 divided into 5,000 shares of the par value of \$10.00 each. No shares of stock have as yet been issued, although the corporation would have the right to issue one share to each of its directors to qualify them. The company now asks authority to issue its capital stock of the par value of \$25,000.00, as follows:

1. To pay the expenses of incorporation and for erecting and equipping a gas plant in Winters and laying the necessary mains and service pipes and connections, and for acquiring said franchise, capital stock of the par value of \$17,000.00.

2. To pay promotion expenses, capital stock of the par value of \$7,500.00.

3. To pay attorney's fees, capital stock of the par value of \$500.00.

Referring to the first purpose for which the company desires to issue its stock, it appears that Mr. Erwin paid to the town of Winters the sum of \$120.00 for the franchise, this sum including the advertising, which was done at the expense of the town. It appears further that the fees paid in connection with the incorporation of the company amounted to \$47.00. Applicant submitted a statement of items necessary for the construction and equipment of the gas plant and for the laying of the mains, pipes and connections, which statement is as follows:

Items included in the estimate of the plant proper:

| | |
|------------------------------|-------------------|
| Real estate ----- | \$1,000 00 |
| Gas generator ----- | 7,050 00 |
| Building for generator ----- | 1,000 00 |
| Storage building ----- | 750 00 |
| 3 storage tanks ----- | 1,200 00 |
| | <hr/> \$11,000 00 |

Estimate on pipes and connections:

| | |
|---|----------------|
| 1,600 feet 4-inch pipe at \$29.68 ----- | \$479 68 |
| 20,000 feet 2-inch pipe at \$9.44 ----- | 1,888 00 |
| 7,000 feet 3-inch pipe at \$2.93 ----- | 205 10 |
| 10,000 feet 1-inch pipe at \$2.42 ----- | 242 00 |
| 275 crosses at \$.35 ----- | 96 25 |
| 275 services at \$.35 ----- | 96 25 |
| 275 service boxes at \$.95 ----- | 261 25 |
| | <hr/> 3,268 53 |
| 275 standard meters (5 light) at \$6.20 ----- | 1,705 00 |
| 1 standard meter (200 light) ----- | 113 75 |
| 29,000 feet of ditching at \$.04 ----- | 1,160 00 |
| Laying 29,000 feet of pipe at \$.03 ----- | 870 00 |
| Laying 10,000 feet service pipe, setting service boxes and meters --- | 1,000 00 |
| | <hr/> |
| Total ----- | \$19,117 28 |

Referring to the promotion fees, the application for the issue of stock under this head is to include Mr. Erwin's services to date, and also his services until the plant has been constructed and is in operation, includ-

ing particularly the sale at par of the stock which the Commission's order will authorize to be issued. Mr. Erwin has spent about three months on this project and has taken trips to several California towns to familiarize himself with the operation of gas plants. He testified that he had spent some \$400.00 or \$500.00 on this work. He also attended some six or seven meetings of the board of town trustees of Winters in order to secure the franchise. He will hereafter have additional work in superintending the construction of the plant and in selling the stock. It will also be necessary to pay the attorney's fees which have been incurred. I shall not pass on the reasonableness of the amount of stock which applicant asks authority to issue in payment of attorney's fees, but shall include this item in the general item which I shall allow under the head of promotion fees. Considering the work which Mr. Erwin has already done and that which it will be necessary for him hereafter to do in order to put the plant in operation, I find that it would be reasonable to authorize the Winters Gas Company to issue its capital stock of the par value of \$2,000.00 for these promotion purposes. As the value of the promoter's service to the community will depend to a large extent on whether or not this project is completed and as no value will result to the community unless this gas plant is put into successful operation, the order will provide that of the stock authorized to be issued to Mr. Erwin for promotion services, stock of the par value of \$500.00 only may be issued at the present time. The remaining \$1,500.00 may be issued only after the plant has been completed and placed in operation and after a supplemental order has been issued by this Commission specifically authorizing the issue of the balance of \$1,500.00.

Referring to the prospects for success in the operation of the proposed plant, Mr. Erwin testified that, in his opinion, he would be able to secure at least two hundred and fifty subscribers. He made a canvass of one of the streets of the town and secured a list of fifty-four subscribers. Each person to whom he spoke subscribed. While this Commission can not pass upon the question whether or not this plant will be successful, I am of the opinion that under all the facts of this case, authority should be granted to issue the stock hereinafter authorized. Purchasers of the stock will, of course, investigate the project and satisfy themselves as to whether or not there is a reasonable prospect for success.

I find that the purposes for which the proceeds of the stock hereinafter authorized to be issued will be used are not in whole or in part reasonably chargeable to operating expenses or to income and submit herewith the following form of order:

ORDER.

C. A. Erwin having filed with this Commission his application for authority to assign to Winters Gas Company that certain franchise for

the manufacture and distribution of gas which has heretofore been granted to him by Ordinance No. 119 of the town of Winters, and Winters Gas Company having applied, under the provisions of section 50 of the Public Utilities Act, for a certificate of public convenience and necessity, and Winters Gas Company having applied for an order authorizing the issue of its capital stock of the par value of \$25,000.00, and a public hearing having been held upon said applications, and the Commission finding that the purposes for which the proceeds of the stock hereby authorized to be issued are to be used are not reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. C. A. Erwin is hereby authorized to assign to Winters Gas Company his rights under Ordinance No. 119 of the town of Winters, adopted November 11, 1913, and authorizing Erwin, his successors and assigns to manufacture and distribute gas within the town of Winters. A certified copy of the assignment shall be filed with this Commission and also with the clerk of the town of Winters.

2. The Railroad Commission hereby finds that the present and future public convenience and necessity require and will require the exercise by Winters Gas Company of the rights granted to C. A. Erwin by Ordinance No. 119, of the town of Winters, granting a franchise for the construction and operation of a gas plant and distributing system in the town of Winters, and the construction and operation of such plant.

3. Winters Gas Company is hereby authorized to issue its capital stock of the par value of twenty-one thousand and three hundred dollars (\$21,300) on the following conditions and not otherwise, to wit:

(a) Said stock shall be issued at not less than par, for cash, with the exception of the stock herein authorized to be issued to C. A. Erwin for promotion.

(b) Said stock shall be issued only for the following purposes:

(1) Capital stock of the par value of one hundred and twenty dollars (\$120) may be issued in consideration for the transfer of the franchise hereinbefore referred to.

(2) Capital stock of the par value of fifty dollars (\$50) may be issued to pay the incorporation expenses referred to in the opinion herein.

(3) Capital stock of the par value of nineteen thousand one hundred and thirty dollars (\$19,130) may be issued for the purpose of constructing and placing in condition to operate the plant, pipes and connections, as these items and the amounts estimated therefor are specified in the opinion which precedes this order.

(4) Stock of the par value of two thousand dollars (\$2,000) may be issued to C. A. Erwin for promotion purposes, including the payment

of attorney's fees. Of this amount, stock of the par value of five hundred dollars (\$500) may issue immediately but the remaining stock may not be issued until the gas plant and system have been completed and are in operation and until this Commission has made a supplemental order authorizing the issue thereof.

(c) Winters Gas Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds of the sale or other disposition of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or other disposition of said stock during the previous month, the terms and conditions of such sale or disposition, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(d) The authority hereby granted to issue capital stock shall apply only to capital stock issued prior to December 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of December, 1913.

Decisions Nos. 1114, 1115, grade crossings; not printed. See end of volume.

DECISION No. 1116.

G. W. MORDECAI ET AL.

vs.

THE MADERA CANAL AND IRRIGATION COMPANY AND
C. S. MOSES.

Case No. 418.

IN THE MATTER OF THE INVESTIGATION INTO THE
SERVICE, EQUIPMENT AND FACILITIES OF MADERA
CANAL AND IRRIGATION COMPANY ON THE RAILROAD
COMMISSION'S OWN INITIATIVE.

Case No. 498.

Decided December 5, 1913.

Held. Defendant directed to install certain improvements in its South Slough; to remove grass and other obstructions from all its canals and laterals and to place same in first-class condition.

Held, Defendant to formulate and enforce such rules and regulations as will secure a ratable distribution of water and to prevent the taking of water by persons not entitled thereto; to supply no new lands with water not heretofore served or under contract.

Raleigh E. Rhodes and G. W. Mordecai, Jr., for Complainants in Case No. 418.

W. H. Davis and Robert L. Hargrove, for Madera Canal and Irrigation Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

The complaint in Case No. 418 was filed by certain water users from the system of the Madera Canal and Irrigation Company in Madera County. The allegations of the complaint material to these proceedings are that complainants are water users and water right owners under the water company's system; that the water company is a public utility; that the defendant Moses owns certain lands in Madera County; that on or about March 19, 1896, the Adobe Ranch Company conveyed to the water company the "Adobe Ditch" and appurtenances, which thereupon became a part of the water company's property dedicated to a public use; that the "Adobe Ditch" or "China Store Ditch," as it is also called, has a rock formation for its base and is built upon hard soil and takes water from the Fresno River with little loss from seepage or waste; that without the ditch, the water company's supply of water is greatly diminished by reason of its flow for a distance of nine miles over large beds of sand; that on December 24, 1907, the water company attempted to reconvey the Adobe Ditch and appurtenances to C. S. Moses, the successor in interest of the Adobe Ranch Company, and that since said time the ditch has been abandoned by the water company, with the result that its service has become inadequate and inefficient; that said ditch as a matter of law has remained part of the water company's system; that in or about 1903 the water company spent about \$100,000.00 in the acquisition of certain reservoir sites northwest of the Fresno River and the construction of reservoirs and appurtenances thereon, which moneys were secured from the sale of applicant's bonds in said amount, secured by a mortgage on the water company's entire property, and that one of the reservoirs later broke and that this entire expenditure has proved of no benefit to the water company; that the water company has neglected its headgates, canals and ditches, has permitted the same to become choked with weeds and has suffered its water supply to become depleted; that the distribution of the water is unjust and discriminatory; that the water company has established unreasonable differences as to rates, charges, services and facilities between localities and classes of service; that notwithstanding a scarcity of water new lands have been supplied while lands entitled thereto have

received none; that the water company does not properly manage its business; that it permits unauthorized diversions of water by one user to the disadvantage of another; that the water company has permitted persons to pump water from its supply on the "Adobe Island"; and that repairs should be made to the system and suitable storage reservoirs erected to secure adequate, proper and efficient service.

The answer of the water company denies every material allegation of the complaint. The defendant C. S. Moses did not appear. He is not a public utility, this Commission has no jurisdiction over him, and he will not be further considered as a party to these proceedings.

Public hearings in Case No. 418 were held in Madera on October 6th and 7th and in San Francisco on November 4th and 5th. On the latter day, certain testimony was introduced which led the Commission to believe that possibly certain relief other than that for which the complainants asked should be given. As the plaintiffs did not desire to amend their complaint, and as the Commission was unwilling that its labor in this proceeding might possibly prove unavailing, the Commission thereafter instituted on its own initiative an investigation into the entire subject of the service, equipment and facilities of the water company, so that such relief as might be found appropriate might be given. Case No. 498 was assigned to the Commission's own investigation.

The hearing in Case No. 498 and an adjourned hearing in Case No. 418 were held in San Francisco on November 26, 1913. By consent of all parties, the cases were consolidated for hearing, and the evidence in each case was made applicable to the other case. Both cases were finally submitted on November 26, 1913, and are now ready for decision.

It has been a difficult matter to reach a decision in these cases. A conflict of testimony exists on nearly every material issue. Witnesses in whose good faith the Commission has equal confidence testified to entirely opposite conclusions as to what ought to be done, particularly with reference to the restoration of the China Store Ditch and the use of the reservoirs northwest of the Fresno River. The testimony is full of conflicting theories as to the flow of water in the Fresno River. The Commission's hydraulic engineer made a careful examination of the water company's system, and both he and the Commissioner who heard the cases walked over nearly the entire system down to the main distributing canal, in an effort to ascertain the real facts. If the conclusions herein reached are not satisfactory to all the parties, it will not be due to any lack of effort on the part of the Commission to ascertain the real facts and to reach a just and equitable decision thereon.

The Madera Canal and Irrigation Company was incorporated on December 8, 1888, under the laws of this State "to acquire, hold and dispose of water and water rights and to supply by sale, lease or other-

wise for compensation water and the use of water to landowners and other persons in the county of Fresno and elsewhere in the State of California for irrigation of lands and for domestic and other uses and to acquire, hold and dispose of and deal generally in other property, real and personal, in the State of California." The evidence shows clearly that the company is a public utility.

The company has an authorized issue of forty thousand (40,000) shares of capital stock of the par value of ten (10) dollars each. This stock was all issued to the incorporators without money payments therefor. Applicant has outstanding an issue of five (5) per cent bonds of the face value of one hundred thousand (100,000) dollars, all of which were sold at par. The bonds are secured by deed of trust to California Safe Deposit and Trust Company. The proceeds of the bonds to the extent of \$99,774.60 were used for the purchase of the land on which the company's reservoir system hereinafter referred to is located and for the construction of the reservoirs and appurtenances. In 1908, the company received twenty thousand (20,000) dollars from an assessment on its capital stock, and in 1911 the sum of sixteen thousand (16,000) dollars from a similar assessment. No dividends have been paid since 1904. The company has been engaged in costly litigation in the defense of the title to its waters, which litigation is still pending before the Supreme Court of this State. The company's heavy expenditures for legal services were incurred in connection with these suits. The following statement, appearing on page 47 of the answer in Case No. 418, shows the company's financial condition during the years 1903 to 1912-13:

STATEMENT OF ACCOUNT MADERA CANAL AND IRRIGATION COMPANY.

From date of commencement of construction of reservoir system to date, covering approximately years 1903 to 1912-13, inclusive.

Income:

| | |
|----------------------------------|--------------|
| Bond issue | \$100,000 00 |
| Stock assessments | 36,000 00 |
| Water taxes and rent, 1903 | \$11,553 12 |
| 1904 | 13,559 23 |
| 1905 | 14,084 81 |
| 1906 | 13,695 91 |
| 1907 | 13,554 87 |
| 1908 | 12,735 45 |
| 1909 | 14,491 70 |
| 1910 | 13,635 30 |
| 1911 | 12,854 95 |
| 1912 | 11,278 32 |
| | <hr/> |
| | 131,443 66 |
| | <hr/> |
| | \$267,443 66 |

Expenditures:

| | |
|--|--------------|
| Reservoir system—Land | \$13,403 56 |
| Construction | 81,353 46 |
| Machinery | 5,017 58 |
| | <hr/> |
| New construction, 1907-1912 | \$99,774 60 |
| Legal expenses | 10,739 62 |
| Maintenance | 26,940 94 |
| Taxes | 43,916 69 |
| Interest on bonds and bills payable | 9,653 79 |
| Managerial expense (salary local superintendent) | 50,361 40 |
| Stock dividends, 1903 and 1904 | 12,200 00 |
| | <hr/> |
| | \$258,378 04 |
| Cash on hand | 9,189 00 |
| | <hr/> |
| | \$267,576 04 |

The Madera Canal and Irrigation Company claims the right to take from the Fresno River 250 second feet of water when there is that quantity flowing therein, but when there is less than said quantity then all the waters flowing in the river. The amount of 250 second feet includes the waters artificially turned into the river, as will hereinafter be set forth. The Fresno River is not fed by the snows of the high Sierras, but has its head in the lower regions of the Sierras and receives its waters from the rainfall of the winter season and from the snows which fall in the lower regions of the Sierras. Consequently, the natural or freshet flow of the Fresno River is relatively short in duration, beginning with the rains of December and practically ending in April. The water company has accordingly tried to supplement its supply by diverting water from other sources and conveying it into the upper reaches of the Fresno River. By means of a weir in the North Fork of the San Joaquin River and the Soquel Ditch leading therefrom, the water company diverts a maximum of fifty (50) second feet of water, except during the months of August and September, when it may take only such amounts as are required by the Madera Sugar Pine Company in the operation of its flume. This water is conveyed to the head of Redwood Creek in the watershed of the Fresno River in section 17, township 6 south, range 22 east, and from that point it flows down into the Fresno River. By means of a low concrete dam in Big Creek, a branch of the Merced River, and the Big Creek Ditch leading therefrom, the water company diverts a maximum of fifty (50) second feet of water during December, January, February, March, May, June and July to July 15th of each year and twenty (20) second feet during April, and at all other times such quantities as may be required by the Madera Sugar Pine Company in the operation of its flume, not exceed-

¹Includes \$10,373.27 expended prior to date of bond issue in improvements to increase water supply.

²About \$5,000 additional incurred and paid prior to 1903.

³Six thousand dollars additional paid prior to 1903.

ing at any time thirteen (13) second feet of water. This water is conveyed to the watershed of the Fresno River at the head of Lewis Creek in section 36, township 5 south, range 21 east, whence it flows down the Fresno River. The water company is also entitled to take all the water which is discharged from the end of the Madera Sugar Pine Company's lumber flume in Madera, amounting to from four to eight second feet of water.

The foregoing are the water company's only sources of supply. In view of the testimony that certain lands entitled to water received not even one irrigation during this year, the Commission endeavored to ascertain whether it would not be possible to develop additional water, but all parties agreed that this could not be done. We are accordingly confronted principally with the problem of conserving and applying to beneficial use all of the limited supply of water to which the water company is entitled.

The water company's system of diverting from the Fresno River and distributing the waters to which it is entitled is as follows: The flow of the Fresno River is controlled at a point where it divides into the North Branch and South Slough, by means of a rock dam, also referred to as the cement dam, across the North Branch, and gates into the South Slough, located on the south half of the west quarter of section 17, township 10 south, range 19 east. The water of this company is diverted into the South Slough and is conveyed therein to a point near the company's weir, in section 8, township 11 south, range 18 east. It is then turned back into the Fresno River so as to prevent sand from being washed into the main canal, and is rediverted by the weir into the main canal, whence by a series of lateral ditches and canals it is conveyed to the users thereof in a district lying southeast, south and southwest of the town of Madera.

Defendant's Exhibits "C" and "D" show that in the irrigating year 1912-13, out of a total of 7,650.55 acres under water right contract, 2,813 received one irrigation and 5.5 acres a second irrigation, and that 1,514 acres of land not under contract were irrigated once, 54 acres twice, 18 acres three times and 3 acres four times. The company claims that a portion of the contract lands received no water because no demand for water was made. Most of the noncontract lands which were irrigated more than once were irrigated from the water which is delivered at the end of the Madera Sugar Pine Company's flume. From the contract lands the company claims that there became due the sum of \$7,650.55, being at the rate of \$1.00 for each acre under contract, and from the noncontract lands the sum of \$2,157.71, being at the rate of \$1.30 per acre for the first irrigation and 50 cents for each subsequent irrigation. The water company reports some one hundred twenty-five persons claiming water under contract and eighty-seven

to whom water was delivered without contract during the last irrigating season. Of the latter number eight are also contract holders.

I shall now address myself to the chief grounds of complaint urged in Case No. 418. They are as follows:

1. That the water company's method of conveying water from the Fresno River to the company's main canal is inefficient and wasteful.

2. That the main canal and laterals are in improper condition, resulting in inadequate and inefficient service.

3. That the company discriminates as between different persons entitled to the use of water.

4. That the company, though having an insufficient supply for lands heretofore irrigated, has sold water for new lands.

Each of these claims will now be considered in turn. Both sides agreed that the question of rates should not be deemed at issue in these proceedings.

1. *Method of Transmission.*

The complainants claim that the present method of conveying water to the main canal is inefficient and wasteful on the ground principally that large amounts of water are claimed to be lost by evaporation and seepage while flowing through the sand beds of the Fresno River and the South Slough. A large amount of conflicting evidence was introduced on this point. Complainants, in order to remedy this alleged condition, asked that the company be compelled to rebuild and if necessary enlarge the China Store Ditch along the southeast side of the river, and when the water in the river at the head of the ditch becomes relatively small in amount, to turn all of it into the China Store Ditch instead of conveying it down the main channel of the Fresno River and the South Slough. The water company contended that the amount of money necessary to reconstruct and maintain this ditch would be out of all proportion to the benefits to be derived from the reconstruction of the ditch. The company contended that if any change was made in the method of conveying the water, it should be conveyed through certain canals and reservoirs now existing on the northwest side of the river, thus taking it for a distance of some six miles out of the Fresno River. The complainants claimed that this plan would be costly and not feasible. Mr. R. W. Hawley, the Commission's hydraulic engineer, testified that the advantages to ensue from either of these alternatives would justify the expense involved, if consideration be given merely to securing an improved channel for the conveyance of the water, but that if the matter of securing storage capacity be also considered, the water should be run through the reservoirs and not through a restored China Store Ditch. He recommended a narrowing and improvement of the South Slough. I shall now consider each of these conflicting contentions.

The China Store or Adobe Ditch was constructed during the early seventies by T. J. Hensley and others, from its intake in section 14, township 9 south, range 19 east, along the southeast bank of the Fresno River to a point near the northern ends of the Adobe Island, lying between the North Fork of the Fresno River and the South Slough. Later it was extended along the Adobe Island and across the South Slough to the water company's main canal. In addition to delivering water for the use of the water company, it irrigated some 154 acres of land on the Adobe Island and several smaller tracts. On March 19, 1896, the Adobe Ranch Company, claiming title, conveyed the upper portion of the ditch to the water company, which company agreed that the grantor might take from said ditch enough water to irrigate said 154 acres of land. On December 24, 1907, the water company, claiming that the expense of maintaining and repairing the ditch did not justify its further use, reconveyed this portion of the ditch to C. S. Moses, the successor of the Adobe Ranch Company. Since that time the ditch has not been used for the conveyance of water. This Commission has no power to set aside the conveyance from the water company to Moses. Such power vests solely in the courts. The only question in this connection is whether on the facts as developed in this proceeding good service on the part of the water company demands that the company reacquire its rights, if necessary, and thereafter reconstruct and maintain the ditch.

The complainants ask that the ditch be restored to its original capacity. They claim through their witness, W. L. Dixon, that if restored to its original capacity the ditch will carry 100 second feet of water and that it will cost \$24,210.00 to so restore it. The testimony is conflicting as to how much water the ditch would carry if restored and how much money it would cost to restore it. Mr. Hawley, the Commission's hydraulic engineer, testified that if restored to its original condition with the addition of certain minor changes, it would carry a maximum of 50 second feet and that this work would cost \$25,000.00. He estimated that if so restored the ditch could deliver a maximum amount of 35 second feet of water at the lower end, allowing only 5 second feet for use along the way. To enable the ditch to carry the maximum of 50 second feet it would be necessary, in addition to restoring the ditch, to make changes at points where the ditch in its original condition could not carry 50 second feet. Mr. F. E. Smith, the county surveyor of Madera County, made measurements along different portions of the ditch and reported that it would carry at different points between 28.11 and 134.40 second feet. Out of sixteen measurements, only five showed a capacity as large as 50 second feet. Mr. I. Teilman, engineer for the Fresno Canal and Irrigation Company, testified that if 25 second feet of water were turned into the head of the China Store Ditch almost all

of it would be lost before it reached the point of delivery, but that if 50 second feet were turned in, 70 per cent thereof might be delivered if none were used on the way. The testimony of men who actually measured the water delivered at the main canal while the China Store Ditch was in operation and the record of measurements taken by other persons show conclusively that while this ditch was in operation it delivered a maximum of only between 7 and 10 second feet into the main canal. There is no record of any measurement taken at these same times at the head of the ditch, but there is evidence that the ditch at times ran full. I am convinced that if the ditch were simply restored to its original condition it would not now deliver more than it actually delivered when in that condition and that if more than 7 to 10 second feet are to be delivered, the ditch must be enlarged, at least in many places, throughout its extent, and that the cost will be at least \$25,000.00. Even if reconstructed, I am convinced that the ditch will be far less useful than anticipated by the complainants. The chief reason advanced for the reconstruction is that thereby certain waters which now flow past the head of the ditch but do not reach the South Slough, principally after the end and before the beginning of the present irrigation seasons, may be taken into the ditch and delivered so as to extend the irrigation season. At these times, however, the amount of water flowing at the head of the ditch is small, so that it is very questionable whether the water to be delivered at the main canal would be of sufficient quantity to do any real service. At other times, it would be inexpedient to divide the water, because of the losses which would ensue from transmitting it through two channels instead of one. All the witnesses for the defendant testified that it would not be feasible to restore the China Store Ditch, and Mr. Hawley concurred in this conclusion.

Mr. Hawley presented a statement of estimated interest charges and operating expenses for the China Store Ditch, if constructed to convey a maximum capacity of 50 second feet, as follows:

| | |
|--|--------------------|
| Estimated present value..... | \$55,000 00 |
| Necessary renewals | 25,000 00 |
| Total capital account..... | \$80,000 00 |
| <i>Charges.</i> | |
| Interest on \$80,000.00 at 6 per cent..... | \$4,800 00 |
| Annual depreciation | 1,200 00 |
| Maintenance and operation— | |
| Foreman, 7 months at \$100.00..... | 700 00 |
| Repairs—2,500 feet flume at 5 cents..... | 125 00 |
| Maintenance—18 miles of open ditch at \$40.00..... | 720 00 |
| General (taxes, office, etc.)..... | 200 00 |
| Total annual charges..... | \$7,745 00 |

Assuming a possible delivery of 20 second feet from an average flow of 40 second feet at the head of the canal as a maximum, and assuming

C3—RD

a use of the canal for three months. Mr. Hawley ascertains an amount of water delivered of 3,600 acre feet, which would be a cost of \$2.15 per acre foot. The company now actually receives about 40 cents per acre foot for water reaching the canal head, so that the development of this water would cost the company over five times the revenue which it would receive therefrom. Mr. Hawley's assumption as to the amount of water which would be delivered is very liberal, and by no means all the water so delivered would represent a saving over the amount now delivered.

After a careful consideration of all the evidence bearing on this question, I am of the opinion that the advantages to ensue from the reconstruction of the China Store Ditch would not justify an order compelling the expenditure of the money necessary to reconstruct and thereafter maintain this ditch.

The water company contended that if any change is made in the present method of conveying water to the main canal, the water should be conveyed through the reservoirs northwest of the river. This system of reservoirs was begun in the fall of 1902 and completed in the spring of 1903. It was constructed for the purpose primarily of impounding the flood waters of the Fresno River. The system consists of a weir in the Fresno River in section 9, township 10 south, range 19 east; a canal leading thence westerly and southwesterly to what is known as the Adobe reservoir; this reservoir with five levees; a canal running southerly to the Archibald reservoir; this reservoir with levees; and a canal back to the Fresno River. The system was constructed a when the company was advised that it had the right to the flood of the Fresno River and before Miller & Lux secured an injunction enjoining the taking of more than 250 second feet of water. Injunction was secured by Miller & Lux on February 25, 1905, and order granting the injunction was affirmed by the Supreme Court of this State on January 2, 1909. (*Miller & Lux vs. Madera Canal and Irrigation Company*, 155 Cal. 59). Thereafter, on February 26, 1906, the Archibald reservoir broke at its lower end and all the remaining water impounded therein escaped. Since that time no portion of this system has been used for the transmission or storage of water, and a portion of the Archibald reservoir site has been rented out for the cultivation of grain. As hereinafter stated, nearly \$100,000.00 was expended for the construction of this system.

The defendant contended that if any change were made in the present method of conveying the water to the main canal, it would be entirely feasible to construct a canal or ditch through the lower portion of the basin of these reservoirs and thus use the system as a canal. Defendant also urged the use of at least one of the reservoirs for storage purposes as an equalizer of the amount of water delivered. The defend-

ant's system has at present no storage reservoirs worthy of the name. Much evidence was introduced for and against this proposition. Mr. Hawley estimated that it would cost \$6,825.00 to place the system in condition to be used as a channel or ditch, on the assumption that the water would be run into the Fresno River at the outlet of the Archibald reservoir. He testified also that to put the Adobe reservoir into condition to be used as an equalizer for storage purposes it would be necessary to cut a trench along the inner toe of the levee and to flatten the slope to a slope of three or four to one and that it would cost \$5,200.00 to do so. While there is much merit in this proposition, it becomes unnecessary to pass upon it here, for the reason that the chief complainant has by his attitude made it inadvisable at the present time to make an order directing the use of this reservoir system for combined channel and storage purposes. Mr. Mordecai testified that he claimed certain overflow waters through the Cottonwood Creek, and his attorney stated that if the waters of the Fresno River were diverted into the reservoir system by means of the weir at the intake of this system an action would at once be brought by them to enjoin the enforcement of the order by the water company. In other words, the complainants insist on their one remedy or none at all. As they are not entitled to that relief, they would be without any relief under this head if the Commission had not instituted the investigation on its own initiative.

Mr. Hawley testified that in his opinion neither the remedy proposed by the complainants nor that offered as an alternative by the defendant should be adopted, but that the defendant should be directed to remove the obstructions in the South Slough, cut a definite and narrower channel and make the slough more efficient as a means of conveying water. He suggested that the company be then compelled to put its laterals and distributing canals in good condition, and to incur the further expenditures necessary to secure a fairer distribution of the water. Mr. Mordecai concurred in asking for this relief, if the Commission could not see its way clear to directing the reconstruction of the China Store Ditch. Upon a full consideration of the conflicting evidence and contentions on this branch of these cases, I recommend that no order be made at the present time directing a change in the method of conveying the water to the main canal, except that the improvements hereinafter referred to as being necessary in the South Slough be directed to be made.

While there was evidence to the effect that the water brought to the main canal by the South Slough should be turned directly into the canal instead of being first turned back into the river, there was other evidence at least as convincing in favor of the present system. I find that the complainants have not made out a case for relief under this head.

2. *Condition of main and lateral canals.*

The evidence shows that while the main canal is in a satisfactory condition, some of the lateral canals have become overgrown with Johnson grass and otherwise obstructed. It is the duty of defendant to keep these canals in good, serviceable condition. The order will provide that the water company immediately take such steps as will place these canals in first-class condition for the efficient delivery of water.

3. *Discrimination in distribution.*

The evidence clearly shows discrimination in fact in the delivery of water, with the result that some persons, particularly those at the lower end of canals, received no water at all during the last irrigating season, while others received several irrigations. An instance in point is the case of F. A. Cody, who owns 320 acres of land under water-right contract. This year he was able to irrigate only three acres. He lost fifty acres of alfalfa this year, and last year, because of a failure to get water, he lost forty acres of three-year peach trees. Other persons in the general vicinity received water. While there is no evidence to show intentional favoritism on the part of the company, it appears that the company has permitted persons nearer the head of canals to take more than their ratable proportion of the water. It is the duty of the water company to see to it that the water is fairly and ratably distributed and to take the necessary means to produce this result, including, if necessary, the prosecution of persons who tamper with the headgates.

The evidence in these proceedings shows that the water company has no method of accurately measuring the amount of water which is delivered to each consumer, that such rules as it may have for the enforcement of a fair distribution of water are not effectively enforced, and that it does not employ enough help to take care of its system and to enforce a proper distribution of the water. The company has only one ditch tender to distribute the water in over 80 miles of ditches. The order in these proceedings will provide that the necessary steps be taken to remedy these conditions.

4. *Sale of water to additional lands.*

The evidence shows that the defendant, while failing to supply water to certain persons having water-right contracts, nevertheless has furnished water to certain lands which never before used it. An instance in point is a tract of fifty-two acres without even a water-right contract, which received sufficient water to irrigate the entire tract in April, 1913, but had never before been irrigated. The water company claims the right to supply water to an indefinite territory covering some twenty-five to thirty thousand acres of land and formerly owned by the incorporators of the company. While certain of these lands have been

irrigated during the last year, others may not have been irrigated for, say, two, five or ten years, and still others have never used water from this system.

As great injustice may be done by a water company which undertakes to serve lands beyond its real capacity to serve as by a company which, while having the capacity to serve additional customers, unreasonably refuses to do so. In order to remedy this condition, the legislature of 1913 enacted chapter 80. Section 5 thereof reads as follows:

"Whenever the railroad commission, after a hearing had upon its own motion or upon complaint, shall find that any water company which is a public utility operating within this state has reached the limit of its capacity to supply water and that no further consumers of water can be supplied from the system of such utility without injuriously withdrawing the supply wholly or in part from those who have theretofore been supplied by such corporation, the railroad commission may order and require that no such corporation shall furnish water to any new or additional consumers until such order is vacated or modified by the said commission. The commission shall likewise have the power after hearing upon its own motion or upon complaint, to require any such water company to allow additional consumers to be served when it shall appear that to supply such additional consumers will not injuriously withdraw the supply wholly or in part from those who theretofore had been supplied by such public utility."

I find that the Madera Canal and Irrigation Company has under present conditions reached the limit of its capacity to supply water, and that no further lands not heretofore irrigated from this system may be supplied therefrom under existing conditions without injuriously withdrawing the supply wholly or in part from those who have heretofore been supplied by the company. I shall accordingly recommend that the order in these proceedings provide that until the further order of this Commission the Madera Canal and Irrigation Company shall furnish water to no lands which have not heretofore actually received water from the system or which do not have located thereon a water right on which payments are being kept up. If the company so improves its system of transmitting and distributing water as to conserve water in excess of that necessary to irrigate the lands hereinbefore referred to, the company may hereafter ask for a modification of the order.

5. *Checking and leveling of land.*

Defendant has urged strongly that large amounts of water delivered by it to its customers are annually wasted by them because their lands are not properly checked and leveled for the receipt of the water. Defendant takes the position that the most effective way to conserve the water in its system is to have those of its consumers whose lands are not properly checked and leveled be compelled to rebuild the checks

and levels before the company is obligated to supply water. The evidence clearly shows that a portion of the land under this system is not properly checked. The result is that large amounts of water are wasted and that the amount available for all the users under the system is thereby diminished. It is clearly the duty of the consumer to have his land properly checked. There is nothing in this State more precious than water. If a user lets it run to waste, somebody is going to suffer, either the other consumers or the company.

The water company has the right in the first instance to establish such rule or regulation as it may consider reasonable in the premises. This defendant has for many years had in effect a rule reading as follows: "In no case will any application for water be entertained unless the land to be supplied is under a proper system of ditches, checks, levees, gates," etc. The defendant has not enforced this rule, nor has it had a sufficient number of employees to enforce this rule or any other rule which might make for the conservation of its water or the fair distribution thereof. If any rule or regulation which the company adopts in this matter seems to the consumers to be unjust or unreasonable, they may appeal to the Railroad Commission, which has the power, after notice and hearing, to alter or modify any such rule or regulation. In the first instance, however, it is the duty of the water company to work out the matter.

I believe that I have now disposed of all the material issues in these cases. The consummation most necessary under this system is the conservation and fair distribution of *all* water developed. To accomplish this result, duties rest upon both the company and its consumers. I trust that after the very full consideration which the Commission has given to this matter, the conditions surrounding this system may henceforth be materially improved.

I submit herewith the following form of order:

ORDER.

Public hearings having been held in the above entitled proceedings and the same having been submitted and being now ready for decision, the Railroad Commission, basing its order on the findings of fact which are contained in the opinion which precedes this order, hereby orders as follows:

1. Madera Canal and Irrigation Company is hereby directed to take such steps forthwith as may be necessary to remove existing obstructions in the South Slough, to cut a definite and narrower channel along the same and to render the slough efficient as a means of conveying water. Within thirty days from the service of this order, defendant shall submit to the Commission a definite plan for the accomplishment of this purpose. The Commission will thereupon make a supplemental

order specifying the time within which the improvements directed in this order to be made shall be completed.

2. Madera Canal and Irrigation Company is hereby directed forthwith to remove the grass and other obstructions in its canals, laterals and other ditches and place them in first class, serviceable condition.

3. Madera Canal and Irrigation Company is hereby directed to distribute its waters ratably and fairly among all persons entitled thereto and to make and enforce such rules and regulations and take such other steps as may be necessary to this end, including the institution of an efficient system of measuring the water distributed, the taking of the necessary steps to prevent the taking of water by persons not entitled thereto, and the hiring of enough competent employees to enforce the company's proper rules and regulations.

4. Madera Canal and Irrigation Company is hereby directed to furnish no water to lands not heretofore actually irrigated from its system or under contract on which the payments have not been kept up, until this portion of this order is vacated or modified by this Commission.

5. Madera Canal and Irrigation Company shall make a written report to this Commission on the first day of each month until this order has been fully complied with, showing what has been done by the company during the preceding month in carrying out the terms of this order.

6. In so far as the relief asked for by the complaint in Case No. 418 falls within the terms of this order, such relief is hereby granted, but in all other respects the complaint is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of December, 1913.

DECISION No. 1117.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN
CALIFORNIA UTILITIES COMPANY TO ISSUE BONDS.

Application No. 87.

Decided December 5, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Upon application in writing by the Southern California Utilities Company for an order extending the time within which bonds could be

issued under the order of this Commission, dated the 13th day of November, 1912, from the 1st day of December, 1913, to and including the 1st day of June, 1914; and

Good cause being shown therefor, it is hereby ordered that the order made and entered herein the 13th day of November, 1912, is hereby amended or modified in the following particulars, not otherwise, to wit, the last sentence in paragraph 9 of said order, which reads:

“The authority hereby given to issue said bonds shall apply only to bonds issued by said company on or before the 1st day of December, 1913,”

is hereby amended or modified to read as follows:

“The authority hereby given to issue said bonds shall apply only to bonds issued by said company on or before the 1st day of June, 1914.”

Said order of November 13, 1912, in every other particular shall remain in full force and effect.

Dated at San Francisco, California, this 5th day of December, 1913.

DECISION No. 1118.

IN THE MATTER OF THE APPLICATION OF MOUNT WHITNEY POWER AND ELECTRIC COMPANY FOR PERMISSION TO ISSUE ADDITIONAL BONDS.

Application No. 812.

Decided December 5, 1913.

Held, Applicant authorized to issue bonds of the face value of \$250,000.00, proceeds to be used for the acquisition of new property and for the construction of additions and betterments thereon.

Lilienthal, McKinstrey & Raymond and Albert Raymond, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application for an order authorizing the issue by Mount Whitney Power and Electric Company of \$250,000.00 face value of bonds.

The financial condition of applicant has been carefully gone into by the Commission in Applications Nos. 287 and 436, in which said applications permission was granted to issue bonds for the purpose of additions and betterments to the plant of applicant.

As it was found in these prior proceedings that the relation of the value of applicant's property to its obligations was reasonable and as applicant can only issue under its trust deed 80 per cent in face of bonds to 100 per cent of property acquired, it is obvious that to grant this application will not result in adding unduly to the proportionate capitalization of applicant.

Applicant has submitted a detailed statement showing the work under construction, together with the estimates of cost thereof and a detailed statement of indebtedness created to provide such construction, and the request is that the proceeds of the bonds herein asked to be authorized shall be applied, as far as possible, to the payment of this indebtedness and to the continuation of the described construction.

Applicant proposes to sell these bonds at not less than 95 per cent of their face value and accrued interest.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made by Mount Whitney Power and Electric Company for an order authorizing the issue of \$250,000.00 face value of bonds, and a public hearing having been held thereon, and it appearing to the Commission that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted,

It is hereby ordered by the Railroad Commission of the State of California that Mount Whitney Power and Electric Company is hereby authorized to issue \$250,000.00 face value of bonds, payable on the 1st day of October, 1939, said bonds to bear interest at the rate of 6 per cent per annum, and to be issued under the terms and conditions set out in applicant's first mortgage to Bankers Trust Company of New York, dated October 1, 1909, on the following conditions and not otherwise:

1. Said bonds shall be sold to net applicant not less than 95 per cent of face value with accrued interest.

2. The proceeds from the sale of said bonds shall be used for the purpose of acquiring property and constructing additions and betterments to the plant of applicant, as more fully described in Exhibit 1 on file herein, and for the purpose of paying off indebtedness created for the acquisition of property and the construction of betterments and additions to the plant of applicant, said indebtedness being particularly described in Exhibit 2, on file herein.

3. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be issued, and on or before the

twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such bonds during the preceding month, the terms and condition of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

4. The authority hereby given to issue such bonds shall apply only to bonds issued by said company on or before the 1st day of December, 1914.

5. The payment of the fee prescribed in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of December, 1913.

DECISION No. 1119.

IN THE MATTER OF THE APPLICATION OF THE EMPIRE
TELEPHONE COMPANY FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY WITH PERMISSION TO
TRANSACTION A GENERAL TELEPHONE BUSINESS AT
EMPIRE AND VICINITY.

Application No. 823.

Decided December 6, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

At the hearing upon this application at Empire, California, December 4, 1913, Empire Telephone Company having orally requested that this application be dismissed,

It is hereby ordered that the above entitled application be, and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 6th day of December, 1913.

DECISION No. 1120.

IN THE MATTER OF THE APPLICATION OF THE PITT RIVER POWER COMPANY FOR PERMISSION TO SUPPLY ELECTRICITY IN THE NORTHEASTERN PORTION OF SHASTA COUNTY AND IN MODOC COUNTY AND LASSEN COUNTY, STATE OF CALIFORNIA.

Application No. 470.

Decided December 9, 1913.

Held. Certificate of public convenience and necessity to be issued to applicant provided applicant secures the necessary franchises from Shasta, Modoc, and Lassen counties.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This application was filed with the Commission on March 28, 1913, and thereafter a hearing was held, at which it developed that applicant had not yet secured its franchises from the supervisors of Shasta, Modoc, and Lassen counties. Further hearing of the application was, therefore, continued until such franchises could be secured. Applicant, thereupon, applied to the supervisors of the counties mentioned for the franchises desired and in due course its applications came on for hearing before said boards of supervisors.

In the mean time, anticipating no competition for the franchises, applicant had done considerable preliminary work.

At the hearing of the applications for franchises, applicant had a representative present, who, understanding that he was not authorized to bid higher than a certain amount, and it developing that others were bidding for the franchises, permitted them to be sold to other parties.

Thereupon, applicant filed a supplemental application with this Commission setting forth the above facts and praying for a preliminary order, under section 50 (a) of the Public Utilities Act, that public convenience and necessity will require the construction and operation of such an electric plant or system as applicant contemplates building, as set forth hereafter in the order *when* the necessary franchises shall have been secured from the boards of supervisors of Shasta, Modoc, and Lassen counties.

At the time the first application was filed, applicant applied for permission to serve a certain section in Modoc County for which section an application was also before the Commission in which E. M. Wilson, Nettie B. Harris and Lawrence A. Wilson were also applicants for a certificate of public convenience and necessity, but under the amended

application for a preliminary certificate the section of country referred to is excluded. Applicant also asked permission from this Commission to continue its preliminary work until said franchises were granted.

This Commission can not grant applicant permission to continue its preliminary work, as that would be undue interference with the authority vested in the boards of supervisors of the various counties within which applicant has asked for franchises. The Commission can, however, decide that public convenience and necessity will require the installation of such an electric plant or system as applicant desires to erect within the counties where franchises have been asked for *when* such franchises are granted.

Believing that applicant is acting in good faith and that the public convenience and necessity of the people living in the country where applicant has applied for franchises will be promoted and served by the installation of an electric plant by applicant, as set forth in the order, I find as a fact that public convenience and necessity *will* require the granting of a certificate of convenience and necessity to applicant *when* it shall have secured the franchises applied for in said counties of Shasta, Modoc, and Lassen, and I recommend the following order:

ORDER.

The Pitt River Power Company, a corporation, having applied to this Commission for a preliminary order granting it permission to continue preliminary work pending the hearing of its application for franchises in Shasta, Modoc, and Lassen counties to erect, construct, maintain and operate poles, piers, towers and other superstructures necessary for transmitting and conducting electricity, and to lay, maintain and operate wires, cables and other appliances in such modes as may be convenient and proper through, along, over and under the roads, highways, public ways, streets, lanes and public grounds and places of and in the counties of Shasta, Modoc, and Lassen, State of California, for the purpose of transmitting and conducting electricity for furnishing light, heat and power for any and all other purposes for which electricity can or may be used; and it appearing to the Commission that applicant is acting in good faith; the Commission finds as a fact that public convenience and necessity will require the granting of a certificate of public convenience and necessity to applicant when applicant shall have secured the necessary franchises from the boards of supervisors of Shasta, Modoc, and Lassen counties.

It is, therefore, hereby ordered, that if applicant secures the franchises mentioned and presents them to this Commission for approval, together with an application for a certificate of public convenience and necessity and for permission to exercise rights under said franchises, if the Commission approves of said franchises, such certificate of public

convenience and necessity and permission to exercise franchise rights will be issued.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of December, 1913.

DECISION No. 1121.

SAN MATEO AND BURLINGAME MERCHANTS' ASSOCIATION
vs.
SOUTHERN PACIFIC COMPANY AND SOUTHERN PACIFIC
RAILROAD COMPANY.

Case No. 461.

Decided December 11, 1913.

Held. That the present freight depot of respondent at Burlingame is inadequate and inefficient; defendant required to submit, within sixty days, plans for an adequate depot to be situated in a more advantageous location.

J. E. McCurdy, for Complainant.

H. C. Booth, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

In this case the San Mateo and Burlingame Merchants' Association complained that the present freight depot facilities at Burlingame are inadequate and not conveniently located for the shipping and receiving of freight, and petitioned this Commission for an order requiring the Southern Pacific Company to erect a new structure more conveniently located, and one that will furnish adequate facilities for freight shipments and receipts.

Inasmuch as defendant in this matter admitted through its witness, Mr. T. Ahern, its division superintendent, that the facilities presently afforded at Burlingame are inadequate and inefficient and that same are not located for the convenient use of the public by reason of the fact that access thereto for vehicular traffic must be had along defendant's right of way, which is narrow, the contention of complainant as to the inadequacy, both of the facilities and their location, and which has been admitted by defendant, will not be further considered here.

Defendant stated that it had been negotiating since 1907 to secure additional property at Burlingame on which to erect a freight depot that would be adequate, and advantageously located, but that no property which was suitable could be obtained on account of the owners of property, which defendant desired to purchase for said facilities, asking a price for same which defendant considered exorbitant.

Considerable testimony was given as to the advantages afforded at different places for the location and construction of a depot, and I am of the opinion and find as a fact from testimony introduced at the hearing by the complainant, and the admissions made by defendant, that the present facilities at Burlingame for the handling of freight are inadequate and that a new freight depot should be constructed at this place which will properly serve the patrons of defendant.

Counsel for defendant brought to the attention of the Commission the fact that the complaint was directed against the Southern Pacific Company and that the Southern Pacific Company owned no property at Burlingame, but that all property rights were vested in the Southern Pacific Railroad Company. On account of this complainant was advised to amend the complaint and make the Southern Pacific Railroad Company a party thereto, which was done, and consequently, in this case, both the Southern Pacific Company and the Southern Pacific Railroad Company are defendants.

Defendant states that its present right of way through Burlingame was not of sufficient width to locate thereon depot facilities that would be adequate, and inasmuch as it is necessary that defendant secure additional property for the construction of such facilities as are necessary, I am of the opinion that the choice of location for same should be decided by defendant, but that such choice should be submitted to this Commission for approval, together with the plans of the depot structure.

The Commission realizes that a public utility corporation is very often required to pay an exorbitant price for property when the exigencies of the corporation require a particular piece of land. Such a condition may be found to exist in this case for the reason that there are but few sites that are suitable for the location of the required freight depot facilities, and I am of the opinion that complainants should use all due diligence and effort in assisting defendants to secure a suitable site for the freight depot at a reasonable sum. If the Commission is reliably advised that defendants are asked to pay an amount for the required depot site that is unreasonable and exorbitant, without doubt the Commission will modify its order entered in this case.

I recommend the following form of order:

ORDER.

San Mateo and Burlingame Merchants' Association, having on September 4, 1913, filed its complaint with this Commission, alleging the inadequate facilities afforded by the Southern Pacific Company, and as the complaint is amended, the Southern Pacific Railroad Company at Burlingame, San Mateo County, California, and also complaining of the disadvantageous location of said facilities, and the defendants herein having been duly notified of and furnished a copy of said complaint, and a public hearing having been had in the matter on November 19, 1913, at which all parties at interest were present and gave such testimony as was relevant, and the case having been duly submitted, and it appearing to the Commission that the complaint is well founded and that the facilities for the shipping and receiving of freight as presently exist at Burlingame are inadequate and inefficient, and that same are not located to advantageously serve the patrons of defendants who ship and receive freight at Burlingame, and who in shipping and receiving said freight have occasion to use said facilities,

It is hereby ordered that defendants shall within sixty days from the service on them of this order, present to this Commission for its approval plans and specifications for a freight depot, the dimensions of which shall be not less than 24 feet by 90 feet, measured from out to out of base-plates, and shall have adequate side and platforms; and shall also file with this Commission, for its approval, a map or plat showing the location where said freight depot will be erected, and shall, within three months after the approval by this Commission of such plans and location, build on said property such freight depot as shall be approved by this Commission.

The Commission reserves the right to modify this order if it shall appear upon reliable evidence that defendants are required to pay more than a reasonable price for the property on which to construct the depot.

It is further ordered that said freight depot shall not be located and constructed at a distance greater than 1,300 feet from the center of the present passenger depot at Burlingame and shall be so located and constructed that ready access thereto may be had by motor trucks, wagons and other vehicular traffic.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of December, 1913.

DECISION No. 1122.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ESTABLISHMENT OF ITS RATE SCHEDULE NO. 2.

Application No. 840.

Decided December 11, 1913.

Held. Applicant authorized to establish a new rate schedule for gas service containing certain slight increases and decreases in territory adjacent to Visalia, Tulare, Porterville, Lindsay, and Exeter.

C. S. S. Forney, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application under the provisions of section 63 of the Public Utilities Act for authority to establish a certain rate schedule for gas delivered to applicant's consumers in and about Visalia, Tulare, Porterville, Lindsay and Exeter. Application is made to this Commission for the reason that under the provisions of section 63 (a) of the Public Utilities Act, no public utility can increase its rates in territory in which this Commission has authority to establish rates unless the Commission's consent to the increase has first been secured. It appears that while the proposed schedule contains certain decreases, it also includes certain increases, and for that reason this application was presented to this Commission. The schedule which applicant desires to put into effect is as follows:

Rate Schedule No. 2, Central California Gas Company.

| Amount | Rate | Discount | Net |
|--|--------|----------|--------|
| Minimum bill | \$1 00 | \$.25 | \$0 75 |
| First thousand | 1 75 | .25 | 1 50 |
| Second thousand | 1 50 | .15 | 1 35 |
| Third thousand | 1 40 | .10 | 1 30 |
| Fourth thousand | 1 40 | .10 | 1 30 |
| Fifth thousand | 1 40 | .10 | 1 30 |
| Sixth thousand | 1 30 | .10 | 1 20 |
| Seventh thousand | 1 30 | .10 | 1 20 |
| Eighth thousand | 1 30 | .10 | 1 20 |
| Ninth thousand | 1 15 | .10 | 1 05 |
| Tenth thousand | 1 15 | .10 | 1 05 |
| Eleventh to twentieth thousand..... | 1 00 | ----- | 1 00 |
| Twenty-first to thirtieth thousand..... | 90 | ----- | 90 |
| Thirty-first to fiftieth thousand..... | 80 | ----- | 80 |
| Fifty-first to one hundredth thousand..... | 70 | ----- | 70 |

Bills are payable on the last day of the month, and discounts will be deducted if the bill is paid on or before the tenth of the following month.

The foregoing rates to be known as "Commodity Rates" and to become effective January 1, 1914.

CLASS RATE No. 20.

Under a yearly contract providing for the use of at least 20,000 cubic feet of gas per month and at least 240,000 cubic feet in twelve months and a minimum bill in any one month of \$20.00 the rate will be \$20.00 for the first 20,000 cubic feet per month, twenty-first and succeeding thousands to be at commodity rates.

The increases in this schedule are as follows:

1. The minimum rate which has heretofore been 75 cents per one thousands cubic feet is increased to \$1.00, but a discount of 25 cents is allowed if the customer pays his bill by the tenth day of the month. In other words, if he pays his bill by the tenth day of the month, a customer consuming the minimum will hereafter pay just as much as he has been paying, but if he does not pay by the tenth day of the month his charge will be an additional 25 cents.

2. Certain increases also appear in the rate for different steps of one thousand cubic feet each in the foregoing schedule, while decreases appear in other steps.

Applicant's consumers are located almost entirely within the limits of incorporated cities and towns which have not turned over to this Commission their power to establish the rates of public utility gas companies. It follows that with reference to these customers the Commission has no jurisdiction over the application. Whether the proposed rate schedule should become effective in these cities or towns is a matter which depends entirely upon the city authorities.

It appears, however, from the testimony of Mr. C. S. S. Forney, that applicant has about fifty-nine customers consuming gas in territory outside the limits of incorporated cities and towns. This Commission has jurisdiction over the rates charged these people. Mr. Forney testified that none of these people consume an amount of gas so small that they pay the minimum and that none consume an amount as low as one thousand cubic feet per month. He testified that some twenty consume between one thousand and two thousand cubic feet per month; fifteen between two thousand and three thousand cubic feet per month; twenty between three thousand and four thousand cubic feet per month; and four consume in excess of four thousand cubic feet per month. A customer consuming an average of 1,500 cubic feet per month will pay the sum of \$2.50 under the proposed schedule as well as under the present schedule, unless he pays before the tenth day of the month, in which case he will receive a little more discount than he does at present, so that he would save about ten cents per month in his bill. A customer consuming 3,500 cubic feet of gas per month pays \$5.40 at present.

with a discount of 25 cents if he pays before the tenth day of the month. Under the proposed schedule he will pay \$5.35, with a discount of 55 cents if he pays before the tenth day of the month. In other words, in so far as customers in territory over which this Commission has jurisdiction are concerned, none are affected by the increase in the minimum. Some slight reductions will be made in the bills of some of these customers, particularly if they pay their bills before the tenth day of the month.

It must be distinctly understood that this Commission is not passing on the reasonableness of these rates *per se*. The only question which is presented to the Commission in this application is whether or not the increases should be allowed. As the increases proposed at present affect only the customers residing within the limits of incorporated cities and towns and will not result in increasing the bills paid by any of the people now living in the country, I see no objection to the granting of this application.

I recommend the following form of order:

ORDER.

Central California Gas Company having applied to the Railroad Commission, under the provisions of section 63 (a) of the Public Utilities Act for an order authorizing the establishment of its Rate Schedule No. 2, set out in the opinion which precedes this order, and the Commission finding that the increases thereby established do not at present affect customers residing within territory in which this Commission has authority to establish rates to be charged by applicant,

It is hereby ordered that said application be and the same is hereby granted, and that said schedule may become effective on one day's notice in territory in which this Commission has authority to establish rates to be charged by applicant.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of December, 1913.

DECISION No. 1123.

IN THE MATTER OF THE APPLICATION OF THE BOCA AND LOYALTON RAILROAD COMPANY FOR AN ORDER EXEMPTING IT FROM COMPLYING WITH THE PROVISIONS OF CHAPTER 284, STATUTES OF 1913, ENTITLED "AN ACT REGULATING HEADLIGHTS ON ALL LOCOMOTIVES AND PROVIDING A PENALTY FOR VIOLATION OF THE PROVISIONS OF THIS ACT."

Application No. 841.

Decided December 13, 1913.

Order exempting applicant from complying with the provisions of chapter 284, Statutes of 1913, regulating headlights on locomotives.

Allan P. Matthew, for Applicant.

REPORT OF THE COMMISSION.

ESHLEMAN, Commissioner.

The applicant operates a line of railway 45.2 miles in length traversing sparsely settled territory, and the evidence shows that the traffic is meager and declining. The line was originally constructed as a lumber road, and on the failure of the supply of forest products operating expenses are not being paid.

All of the trains of this line, except one, are exempted from the provisions of the act, inasmuch as such trains operate exclusively between sun up and sun down. One train, however, operating daily from Loyalton to Portola, a distance of 19.1 miles, leaves Loyalton at 5 p. m. and arrives at Portola at 6.20 p. m., and during the winter season operates for a portion of each trip after sun down; and it is with reference to this train that the applicant desires the Commission to exercise its authority conferred in the act to exempt engines used on short lines or local lines from the provisions of the act.

I am plainly of the opinion that the application should be granted and that safety does not require the equipment of the engine used on this one train with the standard headlight prescribed in the law.

I recommend the following order:

ORDER.

Boca and Loyalton Railroad Company, a common carrier, having applied to this Commission for an order exempting such railroad from the provisions of chapter 284 of the Statutes of 1913, requiring the installation of standard headlights prescribed in the law, and a hearing having been held and being fully apprised in the premises, the Com-

mission hereby finds as a fact that the Boca and Loyalton Railroad is a short local line, and that the headlight provided in the act referred to is not necessary for the preservation of public safety; and basing this order on the foregoing finding of fact,

It is hereby ordered that the Boca and Loyalton Railroad Company shall be exempt from the provisions of the said act until the further order of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1124.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES
GAS AND ELECTRIC COMPANY FOR AUTHORITY TO
ISSUE TWO THOUSAND SHARES OF ITS PREFERRED
STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS
PER SHARE.

Application No. 750.

Decided December 13, 1913.

Application of the Coast Counties Gas and Electric Company to issue \$200,000.00 par value of preferred stock, proceeds to be used partly to refund outstanding indebtedness and the balance for additions to plant, denied, without prejudice.

H. A. Van C. Torchiana, for Applicant.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

This is an application by Coast Counties Gas and Electric Company for authority to issue 2,000 shares of its preferred stock and to use the proceeds to liquidate notes and accounts payable incurred for purposes of capital account in the sum of \$154,342.43, and to apply the balance toward the purchase of meters and for service connections. The company has not stated at what price it proposes to sell the stock, but informally it has conveyed the information that it will ask authority to sell its stock at 80. If the stock is sold at 80 the company will realize \$160,000.00, and after the use for liquidation of notes and accounts payable of \$154,342.43, there will be left for meters, service extensions, etc., \$5,657.57.

The Coast Counties Gas and Electric Company owns and operates

gas plants in Santa Cruz, Watsonville, Hollister, and Gilroy and electric light and power systems in the same territory and its environments. The company has a hydroelectric plant on Big Creek, about 20 miles northwest of Santa Cruz, and steam stations at Santa Cruz. Its generating stations have a combined capacity of 2,600 kilowatts. The transmission line is operated at 23,000 volts, and extends from the Big Creek plant through Ben Lomond, Santa Cruz and Watsonville to Hollister and Morgan Hill. The company buys power from the Pacific Gas and Electric Company at Ben Lomond and at Morgan Hill. The applicant owns the stock of the Union Traction Company in Santa Cruz. Its property consists of 9.5 miles of electric railway and nineteen electric passenger cars and accessories necessary in the operation of its electric street railway.

Coast Counties Gas and Electric Company has an outstanding issue of stock as follows:

| | Authorized. | Issued. |
|-----------------|----------------|----------------|
| Preferred ----- | \$2,000,000.00 | \$1,000,000.00 |
| Common ----- | 2,000,000.00 | 1,000,000.00 |

The par value of all stock is \$100.00. The preferred stock is 6 per cent cumulative nonassessable beyond the unpaid portion.

The applicant submits the following statement of outstanding bonds, mostly underlying issues:

| | |
|---|----------------|
| Bonds of Coast Counties Light and Power Company, first mortgage 5 per cent, dated August 1, 1906, due August 1, 1946, outstanding ----- | \$969,000 00 |
| First mortgage 4 per cent bonds of Big Creek Light and Power Company, dated May 1, 1907, due May 1, 1947, outstanding ----- | 316,000 00 |
| San Benito Light and Power Company first mortgage 6 per cent bonds, dated September 1, 1910, due September 1, 1950, outstanding ----- | 150,000 00 |
| Total outstanding bonds ----- | \$1,435,000 00 |

Its other indebtedness consists of:

| | |
|--|----------------|
| Notes payable ----- | \$101,059 35 |
| Accounts and vouchers payable ----- | 110,678 18 |
| Total other indebtedness ----- | \$211,737 53 |
| Making a combined total indebtedness represented by bonded and other indebtedness of ----- | \$1,646,737 53 |

Because of the difficulties of this case, the Commission, subsequent to the hearing, required a more or less careful inspection of the plant value of this company to be made. This appraisal is based on the inventory made by J. G. White & Company. It is found that the cost of reproduction new, arrived at by this method, would be \$2,265,297.00; and the present depreciated value \$1,828,756.00. In addition the company submits an estimate of other assets including accounts receivable, bills receivable, materials, supplies, cash, etc., in the sum of \$142,597.41, making the total assets, assuming the present depreciated value to be the value of the property for the purposes here considered, of \$1,971,353.41.

The applicant submits the following statement of earnings for the year ending June 30, 1913:

| | |
|---|--------------|
| <i>Operating earnings.</i> | |
| Electric | \$251,305 07 |
| Gas | 83,711 60 |
| Discount | 767 99 |
| Total | 335,784 66 |
| <i>Operating expenses.</i> | |
| Electric | \$97,374 08 |
| Gas | 36,341 30 |
| <i>Maintenance.</i> | |
| Electric | 9,533 45 |
| Gas | 5,081 68 |
| <i>Commercial and general expense.</i> | |
| Electric | 6,486 41 |
| Gas | 6,822 60 |
| San Francisco office expense..... | 8,353 30 |
| Total expense | \$169,992 82 |
| Leaving a net operating revenue of..... | \$165,791 84 |
| <i>Nonoperating income.</i> | |
| Sundry sales revenue..... | \$1,042 01 |
| Interest on investments..... | 2,908 79 |
| Making a total net revenue of..... | \$169,742 64 |

In addition applicant submits other expenses as follows:

| | |
|---|--------------|
| Legal charges | \$1,054 00 |
| Insurance | 2,585 22 |
| Taxes | 12,695 30 |
| Interest | 1,789 94 |
| Total | \$18,124 46 |
| Which leaves a net profit before charging bond interest of... | \$151,618 18 |
| Deducting bond interest of..... | 72,560 00 |
| There is left | \$79,058 18 |

In March, 1912, just before the effective date of the Public Utilities Act, the Coast Counties Light and Power Company sold its properties to the Coast Counties Gas and Electric Company, the Coast Counties Gas and Electric Company issuing in exchange therefor preferred stock in the sum of \$750,000.00 and its common stock in the sum of \$750,000.00. Thereafter, and also previous to the effective date of the Public Utilities Act, Coast Counties Gas and Electric Company issued \$250,000.00 of its preferred stock and \$250,000.00 of its common stock. Assuming the value of the property herein contended for of \$1,971,353.41, and deducting therefrom the outstanding bonds of \$1,435,000.00, we have left \$536,353.41, which is the equity which is owned by the stockholders, and against this we find \$1,000,000.00 of common stock and \$1,000,000.00 of preferred stock already issued and the preferred stock being 6 per cent cumulative. If we disregard for

the present the \$1,000,000.00 common stock outstanding and only consider the preferred, and the Commission should authorize the issuance of the \$200,000.00 preferred stock applied for, there would be outstanding in addition to the common stock, \$1,200,000.00 of 6 per cent cumulative preferred stock against an equity of approximately \$536,353.41. Against this equity, however, there is also outstanding at the present time notes payable, accounts payable, etc., in the sum of \$211,737.53. It is the intention of the company, however, that the present issue of \$200,000.00 of preferred stock shall replace \$154,342.43 of this outstanding indebtedness, leaving a balance of \$57,395.10. The equity of \$536,353.41 will therefore be reduced by the sum of \$57,395.10, leaving the actual equity, according to the figures at hand, of \$478,958.31. If the application is granted we would, therefore, as against the issue of \$1,200,000.00 of 6 per cent cumulative preferred stock and \$1,000,000.00 common stock, have value merely of \$478,958.31, leaving the amount of water in the issue of preferred stock of \$721,041.69 and all of the common stock likewise water.

Some suggestion was made in the testimony that representatives of this company conferred with representatives of the Commission with reference to the propriety of expending this money, which is now sought to be refunded, for capital expenses and thereafter being permitted to refund by the issue of securities or stock. I have no knowledge of any such suggestion, but if it were made by the Commission or the Commission's representatives it would certainly be made in contemplation merely of the fact that expenditures for capital account will ordinarily be permitted to be refunded, and the evidence shows that the expenditures here are such that they could properly be refunded either by the issuance of stocks or bonds, but certainly the admission of this fact does not carry with it the conclusion that the applicant may be permitted to increase its capital stock or its bonded indebtedness even for proper capital purposes when it is already overcapitalized.

As has been said many times in the past, this Commission is desirous of assisting instead of hampering any legitimate enterprise. We believe that under the present officers of this company it is being managed in a much better manner than heretofore, and we have no doubt of the ability of this management to devise means to place the finances of this company in a desirable condition. I would suggest, however, that this Commission would look with very much more favor upon an arrangement whereby new preferred stock, preferred over the outstanding stock, should be issued rather than preferred stock which participates equally with the present preferred stock, which has not a proper basis of value behind it. I would suggest to the representatives of this company that they confer with this Commission, or that they submit to this Commission some plan of refinancing along the line here suggested

otherwise acceptable to the Commission. Of course, I do not wish to be understood as stating in advance what plan this Commission will approve. My suggestion goes no further than to state that this Commission will be glad to co-operate with this company with a view to relieving its financial difficulties, if such thing be possible.

I submit the following order:

ORDER.

Coast Counties Gas and Electric Company having applied to this Commission for authority to issue 2,000 shares of its 6 per cent cumulative preferred stock of the par value of \$100.00 per share for the purpose of refunding obligations and incurring obligations properly chargeable to capital account, and a hearing having been held, and being fully advised in the premises,

It is hereby ordered that the application be and the same hereby is denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

Decisions Nos. 1125, 1126, 1127, 1128, grade crossings; not printed.
See end of volume.

DECISION No. 1129.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (COAST LINES), SIERRA RAILWAY COMPANY OF CALIFORNIA AND SOUTHERN PACIFIC COMPANY, FOR PERMISSION TO INCREASE CLASS RATES BETWEEN SAN FRANCISCO, SACRAMENTO, STOCKTON AND OTHER POINTS ON THE SANTA FE AND SOUTHERN PACIFIC AND POINTS ON THE LINE OF SIERRA RAILWAY COMPANY OF CALIFORNIA.

Application No. 301.

**THE COUNTY OF TUOLUMNE AND THE CITY OF SONORA
vs.
SIERRA RAILWAY COMPANY OF CALIFORNIA, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
AND SOUTHERN PACIFIC COMPANY.**

Case No. 359.

THE COUNTY OF CALAVERAS AND THE CITY OF ANGELS,
INTERVENORS.

ANGELS LUMBER COMPANY

vs.

SIERRA RAILWAY COMPANY OF CALIFORNIA, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND SOUTHERN PACIFIC COMPANY.

Case No. 379.

UTICA GOLD MINING COMPANY AND HOBART ESTATE COMPANY

vs.

SIERRA RAILWAY COMPANY OF CALIFORNIA, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND SOUTHERN PACIFIC COMPANY.

Case No. 380.

Decided December 13, 1913.

Held, Application of Atchison, Topeka and Santa Fe Railway Company (Coast Lines), Sierra Railway Company of California, and the Southern Pacific Company to increase through rates from San Francisco, Stockton, Sacramento and intermediate points to points on the Sierra Railway, denied.

Held, Schedule of rates ordered into effect by the Commission within twenty days, covering joint rates for the transportation of freight between points on the line of the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company and local class rates of the Sierra Railway Company, and commodity rates on forest products, fuel oil and concentrates.

Held, Three railroads involved shall agree on basis of division of joint rates.

C. W. Durbrow and *George D. Squires*, for Southern Pacific Company.

E. W. Camp, for the Atchison, Topeka and Santa Fe Railway Company.

Morrison, Dunne & Brobeck, for Sierra Railway Company of California.

Seth Mann, for Angels Lumber Company, Utica Gold Mining Company, Hobart Estate Company, and San Francisco Chamber of Commerce.

Rowan Hardin, for County of Tuolumne.

J. C. Webster, for City of Sonora.

John Hancock and *Seth Mann*, for County of Calaveras.

Charles P. Snyder, for City of Angels.

G. J. Bradley, for Merchants and Manufacturers' Traffic Association of Sacramento.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

September 20, 1912, F. W. Gomph, as agent for Pacific Freight Tariff Bureau, applied to this Commission on behalf of the Atchison, Topeka and Santa Fe Railway Company (Coast Lines), Sierra Railway Company of California, and the Southern Pacific Company, for permission to increase through rates from San Francisco, Stockton, Sacramento and intermediate points to points on the Sierra Railway. This application was based primarily on the reason that the existing through rates were originally constructed on the basis of combination of local rates to and from Oakdale, and since the local rates now in force between San Francisco, Stockton, Sacramento and intermediate points to Oakdale have been changed it is contended the through rates from these points to points on the Sierra Railway should likewise be changed.

This application was made really on behalf of the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company, these two lines alone being the beneficiaries under the proposed adjustment, inasmuch as the Sierra Railway Company's locals had not been changed and under the proposed adjustment would still continue to receive the same proportion of the through rates as heretofore.

The filing of this application was followed by complaints filed by the County of Tuolumne, the City of Sonora, the Angels Lumber Company, the Utica Gold Mining Company and Hobart Estate Company attacking not only the local rates of the Sierra Railway but also joint rates effective between the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company and Sierra Railway Company. In the complaint of the County of Tuolumne and the City of Sonora it is alleged that undue discrimination exists in favor of the City of Angels and the County of Calaveras generally. The City of Angels and County of Calaveras therefore intervened in the proceedings and attacked as unreasonable all of the rates of the Sierra Railway Company and the joint rates in effect between points on the lines of the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company and the Sierra Railway Company.

From the nature of the complaints it became apparent that in order to dispose of the same the entire rate adjustment of the Sierra Railway Company between all points on its lines and the joint rate adjustment between the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company and Sierra Railway Company should be considered at one hearing and disposed of at one time.

The design of Application No. 301 is to change the through rates obtaining between the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company on the one hand and the Sierra Railway Company on the other, so that the two former carriers will

obtain as divisions of such through rates the present local to Oakdale, which is the point of junction of the Sierra Railway with these lines.

It was contended by these applicants at the hearing that the service performed by them in connection with transporting freight to Oakdale for delivery to the Sierra Railway Company was as valuable and as expensive as when freight was destined to Oakdale and did not move beyond, and that such being the case the Atchison, Topeka and Santa Fe and the Southern Pacific should receive as their proportion of the through rate their local rate applying to and from Oakdale. The same contention was advanced by the Sierra Railway Company in its attempt to justify the present division whereby it receives its full local to and from Oakdale out of the through rate applying over the larger lines.

With these contentions I can not agree. It is not true that the expense falling on each individual carrier involved in a joint movement is as great as the service performed by either of such carriers on local movements to and from their respective junction points. In this case the evidence clearly convinces me that the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company do not perform the same amount of service respecting freight consigned to Oakdale and picked up at that point as is performed in relation to freight passing through Oakdale on a joint movement. Take, for example, a less than carload shipment from San Francisco to Oakdale, and likewise a less than carload shipment from Oakdale to Sonora. In each of these movements the carriers between point of shipment or consignment and Oakdale perform two terminal services. The shipments must be received, receipted for, waybilled, loaded at point of shipment, unloaded at destination, a freight bill made out and final delivery made at the edge of the platform to the consignee. On the other hand, if a less than carload shipment is made from San Francisco through Oakdale to Sonora, all of the services performed at Oakdale both by the Sierra Railway Company and either the Southern Pacific Company or the Atchison, Topeka and Santa Fe Railway Company are dispensed with, save the registering of waybills in the transfer register. Thus we find the unloading cost at Oakdale, the expense of making freight bills, rendering accounts to the auditor, delivering to the consignee, and the cost of receiving and loading the freight at Oakdale and waybilling the same has been saved to the carriers participating in the through movement.

It was testified that merchandise cars containing less than carload shipments were placed by the Southern Pacific train crews directly on the interchange track of the Sierra Railway Company, thereby saving whatever additional cost, if any, might be involved in switching the car to the freight platform on the Oakdale depot, as would be the case of a shipment consigned direct to Oakdale.

With reference to earload shipments there is, of course, no loading or unloading performed by the carriers, but nevertheless if the earload shipments were consigned to Oakdale proper the delivering carrier would be deprived of the use of the car ordinarily for two days, which is the free time limit for unloading; likewise on a local shipment originating at Oakdale destined to points on the lines of the Sierra Railway Company, the shipper has two days free time in which to load the car. Thus on local movements, which must be comprehended in local rates, the carriers would be deprived of their equipment for at least the time necessary to unload, and if the shippers and consignees exercise their rights, such car would be out of service four days, while on a through movement direct connection between the two carriers saves not only the switching to the industry or team tracks for delivery, but also switching from the industry or team tracks on an outbound movement.

I am convinced from the evidence that the labor involved in placing earload shipments on the interchange track at Oakdale, is not as great as that required to place the cars on or take the same from industry or team tracks at Oakdale.

For the reasons above stated I can not agree with the contentions of the carriers that through rates between two or more carriers should be made up of the combination of locals. In other words, the practice is, under ordinary circumstances, to impose a less rate for the joint movement over two lines than is represented by the sum of the locals over the separate lines involved, and I believe that this practice is fully justified and that carriers are not within their rights under ordinary circumstances in imposing as a through rate a rate representing a combination of the respective locals.

Undoubtedly there should be some readjustment of the division between the Atchison, Topeka and Santa Fe and the Southern Pacific Company on the one hand and the Sierra Railway Company on the other, but this is a matter which is not at this time before the Commission, and as in the complaints heretofore mentioned, the joint rates of these carriers are in question, we should proceed with the establishment of reasonable through rates, after which, if the carriers are unable to agree on a division, the Commission will prescribe the same as required by law.

Coming now to the local rates of the Sierra Railway Company: The gross earnings of this company increased from \$211,374.07 in 1900 to \$425,868.73 in 1912. The operating expenses during this period increased from \$112,167.30 to \$237,221.51, and the operating income for the same period increased from \$99,206.37 to \$188,647.22. The mileage of the road operated in 1900 was approximately 56½ miles, and in 1912, 75½ miles. The annual bond interest during this time increased from \$50,220.00 to approximately \$112,000.00. In addition thereto

there is an item of about \$16,000.00 bond interest payable on the bonds outstanding against the Yosemite Short Line Railroad and guaranteed by the Sierra Railway Company.

Prior to 1905 the Sierra Railway Company had outstanding \$1,244,000.00 first mortgage 6 per cent bonds. In addition thereto there was outstanding \$1,266,000.00 of what is denominated "an income bond" and on which no interest was paid up to and including 1904. The bond interest therefore which this company was required to meet in 1904 was approximately \$75,000.00 per annum, but we find from the annual report for the fiscal year ending June 30, 1905, that these so-called "income bonds," upon which no interest had heretofore been paid, were retired in favor of an issue of 5 per cent gold bonds amounting to \$860,000.00. For this reason, since 1904, it will be observed the interest charges of this company increased from approximately \$75,000.00 per annum to approximately \$112,000.00 per annum on obligations not representing additional capital. From the records available it appears that the bonds when issued were issued for construction purposes and that the entire issue of stock was given away as a bonus with the bonds. It appears that the bonds of this company were sold at a price approximating 70 per cent of par value, and at this ratio the amount of capital invested in this property from the sale of bonds would approximate \$1,500,000.00.

It is urged that no dividends have ever been paid on the stock of the Sierra Railway Company, and that the entire surplus which might ordinarily have been distributed in the form of dividends has gone back into the property. From the records on file with the Commission it would appear that the total amount of such surplus charged to profit and loss since the construction of the Sierra Railway Company amounted to \$505,279.00, which represents the maximum amount available which might have been reinvested in this property. Thus it will be noted that if the entire outstanding bond issue of the Sierra Railway Company was sold at 70 per cent of par and the entire amount of accrued surplus reinvested in the property, we would have an investment approximating \$2,000,000.00 as representing the actual cash outlay in the entire property of this company. I do not believe it is necessary in this proceeding to decide finally whether or not this amount is correct, and it is only mentioned because of the claim of the defendant Sierra Railway Company that it should be allowed a return on a valuation very greatly in excess of this amount. The bonds of the corporation were not sold outright but were issued to a construction company, which construction company was controlled, if not directly owned, by the promoters of the railroad. The organization of a construction company by the promoters of a railroad and the taking by the construction company of the securities of the railroad in payment

for work always results in the construction company receiving excessive prices for the work done and materials furnished, and it usually follows that the securities are given to the construction company at abnormally low figures. The final result of dealings of this kind is that the property is usually bonded for a price greatly in excess of that for which an independent, disinterested contractor would do the work.

It is a peculiar contention but one usually met with in cases such as this, that where the entire property is produced from the income of bonds sold at a discount and thereafter mortgaged beyond its actual cost, that in addition to paying the interest on the face value of the outstanding indebtedness, which of course represents a larger percentage of interest on the money put into the property than the bonds call for, the stock representing nothing whatsoever but water should also receive dividends, and that unless such dividends can be realized from rates the rates are not high enough. I am entirely out of patience with any such contention and do not believe, in the case we are here considering at least, that the failure to pay dividends on the stock is any evidence that the company has not been receiving sufficient rates.

In addition to the expenditures for bond interest, it also appears that an additional expenditure is made necessary by the Yosemite Short Line deal. The evidence shows that those interested in the Sierra Railway Company organized and started to promote and construct a line of railway known as the Yosemite Short Line, branching off from the main line of the Sierra Railway Company, and reaching some valuable lumber holdings in which the president of the Sierra Railway Company was interested, the line eventually being extended, as is testified, to serve also the Yosemite Valley. Considerable grading work appears to have been done on this line and a large amount of bonds sold for such purpose, the interest thereon being guaranteed by the Sierra Railway Company. The line was never completed, and the rolling stock and property owned by the corporation organized to construct this line is now being used for a nominal rental by a lumber concern controlled by the president of the Sierra Railway Company. I find that approximately \$16,000.00 per annum interest charges must be paid by the Sierra Railway Company on the bonds outstanding against this Yosemite Short Line.

I am plainly of the opinion that this expenditure is one that the Commission is not legally bound to consider and it is one of those expenditures which should be allowed or rejected according to the equities of the case; but I find so few equities in favor of the promoters and constructors of this road that I do not believe the Commission should allow this expenditure unless the strictest compliance with the law requires it. It is well established that such an improvident expendi-

ture, utterly of no use to the company involved, need not be considered in a rate-fixing inquiry.

The president of the Sierra Railway Company has been shown to be heavily interested, if not a dominant factor, in a large lumber concern, which institution is a heavy patron of the Sierra Railway Company. It also appears of record that at one time the president of the Sierra Railway Company was interested in another lumber company which is now a heavy shipper over the line of the Sierra Railway Company, but that he is not now interested in this concern. I mention these facts because in connection with the consideration of rates which I shall now take up these facts are very significant.

The present rates on all kinds of forest products from producing points on the Sierra Railway Company, except Angels, to Oakdale is \$1.05 per ton, while from Angels the rate is \$2.10 per ton. In comparison with other rates maintained by the Sierra Railway Company the rates on lumber from producing points, except Angels, to Oakdale are abnormally low, and are admitted to be so by representatives of the defendant. The movement of forest products over the line of the Sierra Railway Company constitutes between 40 per cent and 50 per cent of all of the tonnage handled by this line, and when we find any such amount of tonnage as this moving at rates which are admittedly too low it must be apparent that the remaining traffic moving over the line is burdened with excessively high rates in order to meet operating expenses, fixed charges and the like. The fact that such rates are in force on a particular kind of traffic applying from points where this traffic is produced by companies in which the railroad officials are now or have been interested, while they are not accorded to points not thus situated, leads to the inevitable conclusion that the railroad is operating not in the interest of the public generally but for the greater profit of the concerns in which the railroad officials are interested. Add to this the fact that freight bills against the lumber company controlled by the president of the railroad have not been paid in cash, if paid at all, gives further force, if such were necessary, to the inference that parties in fiduciary capacity as officials of this company, are abusing their trust and are making profit for themselves at the expense of the institution whose rights they are supposed to protect.

Most of the complaints against this line may be satisfied without the impairment of the income by merely assessing against forest products in which the president of the company is interested, rates comparable to the rates charged for such service under similar conditions elsewhere, which rates will be considerably in excess of the present rates, and taking the additional revenue secured from these increased rates and applying it in lieu of the revenue secured from excessive rates on other traffic. In other words, if we raise the lumber rates, as I feel is

certainly justified, we may substantially decrease other rates of the defendant without materially changing its revenue. I do not mean to be understood as finding that justice to this company requires that the present revenue be maintained, but I believe the principal complaints lodged against it are justified and the complainants should be accorded relief, and the relief asked can be accorded without substantial diminution of the revenue of the company. Under all the circumstances, however, I believe a substantial reduction in the revenue could be made without injustice to this carrier.

A great deal of testimony was introduced to the effect that there is no proper spread between the various class rates, and this I find to be the fact. In ordering an adjustment in class rates of a railroad we have aimed in the past to adhere to some uniform spread between the various class rates, but I do not believe it is logical or reasonable to maintain the spread between the class rates of the Sierra Railway Company which would ordinarily apply on the larger systems. To adjust the class rates in accordance with our uniform spread, using the present first-class rate as a starting point, would result in such low carload rates as to be entirely inadequate. On the other hand, to maintain this spread and furnish adequate returns on carload traffic would mean a heavy increase on less than carload classes. For these reasons, after a thorough consideration of all the circumstances and careful investigation of the tonnage moving over the line of the Sierra Railway Company, I can not recommend that we adhere to our usual spread between the various class rates, but such spread as I do recommend is applicable to this particular road under the facts disclosed by the testimony.

Complainants allege that carload commodity rates should be made so as to permit the mixing of various commodities at one carload rate. I can not agree with this contention, for to permit mixtures of various commodities would entirely destroy that balance which now obtains between carload and less than carload shipments. A large shipper could readily assemble a carload of many different commodities while a smaller shipper would be unable to do so, and in my judgment endless confusion would result. I am of the opinion that the mixing of various commodities into one carload would result in an unscientific system of rates. The principal contention is that grain and flour should be permitted to be mixed. But I see no more reason why these two commodities should be mixed to form a carload than coal and cement, or live stock and machinery, or any other two commodities that are not physically incapable of being transported in the same car.

An allegation in one of the complaints is made against the passenger rates, but no evidence was introduced and no decision will be made with reference thereto.

After a very careful review of all the evidence presented in this case, I find as a fact that the application of the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company and Sierra Railway Company to increase joint class rates to the full combination of rates over Oakdale, is unjustified and I recommend that Application No. 301 be denied.

I find as a fact that the joint class rates between San Francisco, San Jose, Stockton, Sacramento and points between, on lines of the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company on the one hand and the Sierra Railway Company on the other, are excessive and unreasonable.

I find as a fact that the local class rates of the Sierra Railway Company and the commodity rates on lumber from Angels to Oakdale, on fuel oil from Oakdale to Angels, and on ore and concentrates from points on the Sierra Railway Company to Oakdale are excessive, unreasonable and discriminatory.

I find as a fact that the commodity rates on forest products from Sonora, Ralph, Standard, and Tuolumne to Oakdale are unreasonably low and insufficient.

I find as a fact that reasonable joint rates for the transportation of freight between points on the line of the Sierra Railway Company and points on the lines of the Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company and local class rates of the Sierra Railway Company and commodity rates on forest products, fuel oil, ore and concentrates, are those rates set out in Exhibits Nos. 1, 2, and 3, respectively, attached hereto and made a part hereof.

The Sierra Railway Company should reconstruct its class rates for movements between points on its line so as to correspond with the rates herein found to be reasonable between Oakdale and points on its line, and submit to this Commission for its approval before the effective date of this order rates in accordance therewith.

I recommend the following order:

ORDER.

Southern Pacific Company, Atchison, Topeka and Santa Fe Railway Company (Coast Lines), and Sierra Railway Company having filed an application for permission to increase certain class rates between points on their respective lines, and a hearing having been held and being fully apprised in the premises and basing this order on the findings of fact set out in the opinion hereto,

It is hereby ordered that Application No. 301 be and the same is hereby denied.

The County of Tuolumne, County of Calaveras, City of Sonora, City of Angels, Angels Lumber Company, Utica Gold Mining Company and Hobart Estate Company having complained of the rates of the Sierra

Railway Company and the joint rates of the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company, and the Sierra Railway Company, and a hearing having been held and being fully apprised in the premises, and basing this order on the findings of fact herein and in the opinion hereto,

It is hereby ordered that the Sierra Railway Company, Atchison, Topeka and Santa Fe Railway Company (Coast Lines), and Southern Pacific Company, jointly, and the Sierra Railway Company, for local traffic, publish and file with this Commission on or before twenty (20) days from the date of this order, schedules of rates set out in Exhibits Nos. 1, 2, and 3, respectively, which rates are found to be just and reasonable rates, and are hereby established as just and reasonable rates to be charged by the companies involved.

It is further ordered that the Atchison, Topeka and Santa Fe Railway Company (Coast Lines), the Southern Pacific Company, and Sierra Railway Company, agree on a basis of division of the joint rates herein found to be reasonable, and to notify this Commission before the effective date of this order that such an agreement has been reached, and if no such agreement can be reached so to notify this Commission, whereupon this Commission will proceed to establish the divisions of such joint rates as provided by law.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

EXHIBIT NO. 1.

Joint Rates between specified points on the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company (Coast Lines), and all points on the Sierra Railway Company of California.

| Between Stockton, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|----|----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Arnold, Cal. | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| Paulsell | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| Warnerville | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| Cooperstown | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| Rosasco | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 |
| Keystone | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 |
| Chinese | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 |
| Quartz Junction | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 |
| Jamestown | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 |
| Omega Siding | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 |
| Tuttletown | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 |
| El Rico | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 |
| McArdles | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 |
| Melones | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 |
| Carson Hill | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
| Angels | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
| Lime Spur | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 |
| Sonora | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 |
| Granite Spur | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 |
| Standard | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 |
| Draper | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 |
| Black Oak | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 |
| Ralph | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 |
| Tuolumne, Cal. | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 |

| Between San Francisco, Oakland, San Jose, Benicia, Antioch, Bethany, Sacramento, and other points in Group 1, shown in Pacific Freight Tariff Bureau, C. R. C. 74 and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|----|----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Arnold, Cal. | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 |
| Paulsell | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 |
| Warnerville | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 |
| Cooperstown | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 |
| Rosasco | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 |
| Keystone | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 |
| Chinese | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 |
| Quartz Junction | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 |
| Jamestown | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
| Omega Siding | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
| Tuttletown | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 |
| El Rico | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 |
| McArdles | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 |
| Melones | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 |
| Carson Hill | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 | 56 |
| Angels | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 | 56 |
| Lime Spur | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
| Sonora | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
| Granite Spur | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 |
| Standard | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 |
| Draper | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 |
| Black Oak | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 |
| Ralph | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 |
| Tuolumne, Cal. | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 |

JOINT CLASS RATES.

| Between— | And— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|--|---|---|---|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | A | B | C | D | F |
| All points intermediate to Sacramento and Stockton. | All points on the Sierra Railway Company of California | Combination on Stockton, but not to exceed through rates from Sacramento. | | | | | | | | | |

JOINT CLASS RATES.

| Between— | And— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|--|---|---|---|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Alston, Cal. --- Livermore ----- Tracy ----- Flowerfield ----- Hislop, Cal. | All points on the Sierra Railway Company of California | Combination on Stockton or Oakdale, but not to exceed through rates from San Francisco. | | | | | | | | | |

EXHIBIT NO. 2

Local Rates on the Sierra Railway Company of California.

| Between Oakdale, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Arnold, Cal. ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Paulsell ----- | 8½ | 8 | 8 | 8 | 7 | 7 | 6 | 6 | 5 | 5 |
| Warnerville ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Cooperstown ----- | | | | | | | | | | |
| Rosasco ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Keystone ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Chinese ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Quartz Junction ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Jamestown ----- | | | | | | | | | | |
| Omega Siding ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Tuttletown ----- | | | | | | | | | | |
| El Rico ----- | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| McArdles ----- | | | | | | | | | | |
| Melones ----- | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Carson Hill ----- | | | | | | | | | | |
| Angels ----- | 34 | 31 | 30 | 29 | 28 | 28 | 26 | 25 | 23 | 22 |
| Line Spur ----- | | | | | | | | | | |
| Sonora ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Granite Spur ----- | | | | | | | | | | |
| Standard ----- | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Draper ----- | | | | | | | | | | |
| Black Oak ----- | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Ralph ----- | | | | | | | | | | |
| Tuolumne, Cal. ----- | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Arnold, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 64 | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Arnold | | | | | | | | | | |
| Paulsell | 64 | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Warnerville | | | | | | | | | | |
| Cooperstown | 83 | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Rosasco | 123 | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Keystone | 164 | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Chinese | 20 | 19 | 18 | 17 | 163 | 164 | 15 | 15 | 14 | 13 |
| Quartz Junction | | | | | | | | | | |
| Jamestown | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Omega Siding | | | | | | | | | | |
| Tuttletown | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| El Rico | | | | | | | | | | |
| McArdles | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Melones | | | | | | | | | | |
| Carson Hill | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Angels | 34 | 31 | 30 | 29 | 28 | 28 | 26 | 25 | 23 | 22 |
| Lime Spur | | | | | | | | | | |
| Sonora | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Granite Spur | | | | | | | | | | |
| Standard | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Draper | | | | | | | | | | |
| Black Oak | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |

| Between Paulsell, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 83 | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Arnold | 64 | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Paulsell | | | | | | | | | | |
| Warnerville | 61 | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Cooperstown | | | | | | | | | | |
| Rosasco | 83 | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Keystone | 123 | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Chinese | 164 | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Quartz Junction | 20 | 19 | 18 | 17 | 163 | 164 | 15 | 15 | 14 | 13 |
| Jamestown | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Omega Siding | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Tuttletown | | | | | | | | | | |
| El Rico | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| McArdles | | | | | | | | | | |
| Melones | 28 | 26 | 25 | 23 | 23 | 22 | 21 | 20 | 19 | 18 |
| Carson Hill | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Angels | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Lime Spur | | | | | | | | | | |
| Sonora | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Granite Spur | | | | | | | | | | |
| Standard | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Draper | | | | | | | | | | |
| Black Oak | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Warnerville, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Arnold ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Paulsell ----- | | | | | | | | | | |
| Warnerville ----- | | | | | | | | | | |
| Cooperstown ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Rosasco ----- | | | | | | | | | | |
| Keystone ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Chinese ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Quartz Junction ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Jamestown ----- | | | | | | | | | | |
| Omega Siding ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Tuttletown ----- | | | | | | | | | | |
| El Rico ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| McArdles ----- | | | | | | | | | | |
| Melones ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Carson Hill ----- | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Angels ----- | | | | | | | | | | |
| Lime Spur ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Sonora ----- | | | | | | | | | | |
| Granite Spur ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Standard ----- | | | | | | | | | | |
| Draper ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Black Oak ----- | | | | | | | | | | |
| Ralph ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Tuolumne, Cal. ----- | | | | | | | | | | |

| Between Cooperstown, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Arnold ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Paulsell ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Warnerville ----- | | | | | | | | | | |
| Cooperstown ----- | | | | | | | | | | |
| Rosasco ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Keystone ----- | | | | | | | | | | |
| Chinese ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Quartz Junction ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Jamestown ----- | | | | | | | | | | |
| Omega Siding ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Tuttletown ----- | | | | | | | | | | |
| El Rico ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| McArdles ----- | | | | | | | | | | |
| Melones ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Carson Hill ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Angels ----- | 31 | 29 | 27 | 26 | 26 | 25 | 25 | 23 | 20 | 19 |
| Lime Spur ----- | | | | | | | | | | |
| Sonora ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Granite Spur ----- | | | | | | | | | | |
| Standard ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Draper ----- | | | | | | | | | | |
| Black Oak ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Ralph ----- | | | | | | | | | | |
| Tuolumne, Cal. ----- | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Rosasco, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Arnold ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Paulsell ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Warnerville ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Cooperstown ----- | | | | | | | | | | |
| Rosasco ----- | | | | | | | | | | |
| Keystone ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Chinese ----- | | | | | | | | | | |
| Quartz Junction ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Jamestown ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Omega Siding ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Tuttletown ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| El Rico ----- | | | | | | | | | | |
| McArdles ----- | | | | | | | | | | |
| Melones ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Carson Hill ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Angels ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Lime Spur ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Sonora ----- | | | | | | | | | | |
| Granite Spur ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Standard ----- | | | | | | | | | | |
| Draper ----- | | | | | | | | | | |
| Black Oak ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Ralph ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Tuolumne, Cal. ----- | | | | | | | | | | |

| Between Keystone, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Arnold ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Paulsell ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Warnerville ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Cooperstown ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Rosasco ----- | | | | | | | | | | |
| Keystone ----- | | | | | | | | | | |
| Chinese ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Quartz Junction ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Jamestown ----- | | | | | | | | | | |
| Omega Siding ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Tuttletown ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| El Rico ----- | | | | | | | | | | |
| McArdles ----- | | | | | | | | | | |
| Melones ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Carson Hill ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Angels ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Lime Spur ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Sonora ----- | | | | | | | | | | |
| Granite Spur ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Standard ----- | | | | | | | | | | |
| Draper ----- | | | | | | | | | | |
| Black Oak ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Ralph ----- | | | | | | | | | | |
| Tuolumne, Cal. ----- | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Chinese, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Arnold | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Paulsell | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Warnerville | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Cooperstown | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Rosasco | | | | | | | | | | |
| Keystone | | | | | | | | | | |
| Chinese | | | | | | | | | | |
| Quartz Junction | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttletown | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| El Rico | | | | | | | | | | |
| McArdles | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Melones | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Carson Hill | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Angels | | | | | | | | | | |
| Lime Spur | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Granite Spur | | | | | | | | | | |
| Standard | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Draper | | | | | | | | | | |
| Black Oak | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | | | | | | | | | | |

| Between Quartz Junction, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Arnold | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Paulsell | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Warnerville | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Cooperstown | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Rosasco | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Keystone | | | | | | | | | | |
| Chinese | | | | | | | | | | |
| Quartz Junction | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttletown | | | | | | | | | | |
| El Rico | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| McArdles | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Melones | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Carson Hill | | | | | | | | | | |
| Angels | | | | | | | | | | |
| Lime Spur | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora | | | | | | | | | | |
| Granite Spur | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Standard | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Draper | | | | | | | | | | |
| Black Oak | | | | | | | | | | |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Jamestown, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|----|----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Arnold | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Paulsell | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Warnerville | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Cooperstown | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Rosasco | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Keystone | | | | | | | | | | |
| Chinese | | | | | | | | | | |
| Quartz Junction | | | | | | | | | | |
| Jamestown | | | | | | | | | | |
| Omega Siding | | | | | | | | | | |
| Tuttletown | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| El Rico | | | | | | | | | | |
| McArdles | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Melones | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Carson Hill | | | | | | | | | | |
| Angels | | | | | | | | | | |
| Lime Spur | | | | | | | | | | |
| Sonora | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Granite Spur | | | | | | | | | | |
| Standard | | | | | | | | | | |
| Draper | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Black Oak | | | | | | | | | | |
| Ralph | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Tuolumne, Cal. | | | | | | | | | | |

| Between Omega Siding, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Arnold | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Paulsell | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Warnerville | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Cooperstown | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Rosasco | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Keystone | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Chinese | | | | | | | | | | |
| Quartz Junction | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown | | | | | | | | | | |
| Omega Siding | | | | | | | | | | |
| Tuttletown | | | | | | | | | | |
| El Rico | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| McArdles | | | | | | | | | | |
| Melones | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Carson Hill | 16½ | 15 | 15 | 14 | 14 | 13 | 13 | 12 | 11 | 11 |
| Angels | | | | | | | | | | |
| Lime Spur | | | | | | | | | | |
| Sonora | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Granite Spur | | | | | | | | | | |
| Standard | | | | | | | | | | |
| Draper | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Black Oak | | | | | | | | | | |
| Ralph | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Tuolumne, Cal. | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Tuttle-town, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Arnold | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Paulsell | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Warnerville | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Cooperstown | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Rosasco | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Keystone | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Chinese | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Quartz Junction | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Omega Siding | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttle-town | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| El Rico | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| McArdles | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Melones | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Carson Hill | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Angels | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Lime Spur | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Granite Spur | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Standard | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Draper | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Black Oak | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Ralph | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Tuolumne, Cal. | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |

| Between El Rico, California, and — | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Arnold | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Paulsell | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Warnerville | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Cooperstown | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Rosasco | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Keystone | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Chinese | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Quartz Junction | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Omega Siding | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttle-town | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| El Rico | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| McArdles | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Melones | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Carson Hill | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Angels | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Lime Spur | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Granite Spur | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Standard | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Draper | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Black Oak | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Ralph | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Tuolumne, Cal. | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between McArdles, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Arnold ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Paulsell ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Warnerville ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Cooperstown ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Rosasco ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Keystone ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Chinese ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Quartz Junction ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Omega Siding ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttle-town ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| El Rico ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| McArdles ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Melones ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Carson Hill ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Angels ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Lime Spur ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Sonora ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Granite Spur ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Standard ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Draper ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Black Oak ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Ralph ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Tuolumne, Cal. ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |

| Between Melones, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Arnold ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Paulsell ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Warnerville ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Cooperstown ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Rosasco ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Keystone ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Chinese ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Quartz Junction ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Omega Siding ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttle-town ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| El Rico ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| McArdles ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Melones ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Carson Hill ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Angels ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Lime Spur ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Sonora ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Granite Spur ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Standard ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Draper ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Black Oak ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Ralph ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Tuolumne, Cal. ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Carson Hill, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 34 | 31 | 30 | 29 | 28 | 28 | 26 | 25 | 23 | 22 |
| Arnold | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Paulsell | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Warnerville | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Cooperstown | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Rosasco | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Keystone | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Chinese | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Quartz Junction | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Tuttletown | | | | | | | | | | |
| El Rico | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| McArdles | | | | | | | | | | |
| Melones | | | | | | | | | | |
| Carson Hill | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Angels | | | | | | | | | | |
| Lime Spur | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Sonora | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Granite Spur | | | | | | | | | | |
| Standard | | | | | | | | | | |
| Draper | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Black Oak | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | | | | | | | | | | |

| Between Angels, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 34 | 31 | 30 | 29 | 28 | 28 | 26 | 25 | 23 | 22 |
| Arnold | 34 | 31 | 30 | 29 | 28 | 28 | 26 | 25 | 23 | 22 |
| Paulsell | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Warnerville | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Cooperstown | | | | | | | | | | |
| Rosasco | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Keystone | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Chinese | | | | | | | | | | |
| Quartz Junction | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Tuttletown | | | | | | | | | | |
| El Rico | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| McArdles | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Melones | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Carson Hill | | | | | | | | | | |
| Angels | | | | | | | | | | |
| Lime Spur | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Sonora | | | | | | | | | | |
| Granite Spur | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Standard | | | | | | | | | | |
| Draper | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Black Oak | | | | | | | | | | |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Lime Spur, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Arnold | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Paulsell | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Warnerville | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Cooperstown | | | | | | | | | | |
| Rosasco | | | | | | | | | | |
| Keystone | | | | | | | | | | |
| Chinese | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Quartz Junction | | | | | | | | | | |
| Jamestown | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Omega Siding | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttletown | | | | | | | | | | |
| El Rico | | | | | | | | | | |
| McArdles | | | | | | | | | | |
| Melones | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Carson Hill | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Angels | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Lime Spur | | | | | | | | | | |
| Sonora | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Granite Spur | | | | | | | | | | |
| Standard | | | | | | | | | | |
| Draper | | | | | | | | | | |
| Black Oak | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |

| Between Sonora, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Arnold | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Paulsell | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Warnerville | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Cooperstown | | | | | | | | | | |
| Rosasco | | | | | | | | | | |
| Keystone | | | | | | | | | | |
| Chinese | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Quartz Junction | | | | | | | | | | |
| Jamestown | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Omega Siding | 6½ | 6 | 6 | 6 | 6 | 5 | 5 | 5 | 4 | 4 |
| Tuttletown | | | | | | | | | | |
| El Rico | | | | | | | | | | |
| McArdles | | | | | | | | | | |
| Melones | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Carson Hill | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Angels | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Lime Spur | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Granite Spur | | | | | | | | | | |
| Standard | | | | | | | | | | |
| Draper | | | | | | | | | | |
| Black Oak | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Granite Spur, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Arnold ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Paulsell ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Warnerville ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Cooperstown ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Rosasco ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Keystone ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Chinese ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Quartz Junction ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Omega Siding ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttletown ----- | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| El Rico ----- | | | | | | | | | | |
| McArdles ----- | | | | | | | | | | |
| Melones ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Carson Hill ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Angels ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Lime Spur ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora ----- | | | | | | | | | | |
| Granite Spur ----- | | | | | | | | | | |
| Standard ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Draper ----- | | | | | | | | | | |
| Black Oak ----- | | | | | | | | | | |
| Ralph ----- | | | | | | | | | | |
| Tuolumne, Cal. ----- | | | | | | | | | | |

| Between Standard, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. ----- | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Arnold ----- | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Paulsell ----- | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Warnerville ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Cooperstown ----- | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Rosasco ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Keystone ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Chinese ----- | 8¾ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Quartz Junction ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Jamestown ----- | | | | | | | | | | |
| Omega Siding ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Tuttletown ----- | 8¾ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| El Rico ----- | | | | | | | | | | |
| McArdles ----- | | | | | | | | | | |
| Melones ----- | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Carson Hill ----- | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Angels ----- | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Lime Spur ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora ----- | | | | | | | | | | |
| Granite Spur ----- | | | | | | | | | | |
| Standard ----- | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Draper ----- | | | | | | | | | | |
| Black Oak ----- | | | | | | | | | | |
| Ralph ----- | | | | | | | | | | |
| Tuolumne, Cal. ----- | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Draper, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Arnold | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Paulsell | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Warnerville | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Cooperstown | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Rosasco | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Keystone | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Chinese | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Quartz Junction ... / | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Tuttletown | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| El Rico | | | | | | | | | | |
| McArdles | | | | | | | | | | |
| Melones | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Carson Hill | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Angels | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Lime Spur | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora | | | | | | | | | | |
| Granite Spur | | | | | | | | | | |
| Standard | | | | | | | | | | |
| Draper | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Black Oak | | | | | | | | | | |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | | | | | | | | | | |

| Between Black Oak, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|---|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Arnold | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Paulsell | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Warnerville | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Cooperstown | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Rosasco | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Keystone | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Chinese | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Quartz Junction ... / | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Tuttletown | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| El Rico | | | | | | | | | | |
| McArdles | | | | | | | | | | |
| Melones | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Carson Hill | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Angels | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Lime Spur | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Sonora | | | | | | | | | | |
| Granite Spur | | | | | | | | | | |
| Standard | | | | | | | | | | |
| Draper | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Black Oak | | | | | | | | | | |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | | | | | | | | | | |

EXHIBIT NO. 2—Continued.

Local Rates on the Sierra Railroad Company of California.

| Between Railroad, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Arnold | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Paulsell | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Warnerville | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Cooperstown | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Rosasco | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Keystone | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Chinese | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Quartz Junction | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Tuttletown | | | | | | | | | | |
| El Rico | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| McArdles | | | | | | | | | | |
| Melones | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Carson Hill | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Angels | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Lime Spur | | | | | | | | | | |
| Sonora | | | | | | | | | | |
| Granite Spur | | | | | | | | | | |
| Standard | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Draper | | | | | | | | | | |
| Black Oak | | | | | | | | | | |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |

| Between Tuolumne, California, and— | Class rates in cents per 100 pounds | | | | | | | | | |
|--|-------------------------------------|----|----|----|-----|-----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| Oakdale, Cal. | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Arnold | 33 | 30 | 28 | 27 | 26 | 26 | 25 | 23 | 22 | 21 |
| Paulsell | 31 | 29 | 27 | 26 | 25 | 25 | 23 | 22 | 20 | 19 |
| Warnerville | 28 | 26 | 25 | 23 | 22 | 22 | 21 | 20 | 19 | 18 |
| Cooperstown | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Rosasco | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Keystone | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Chinese | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| Quartz Junction | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Jamestown | | | | | | | | | | |
| Omega Siding | 12½ | 12 | 11 | 11 | 10 | 10 | 9 | 9 | 8 | 8 |
| Tuttletown | | | | | | | | | | |
| El Rico | 16½ | 15 | 15 | 14 | 13 | 13 | 13 | 12 | 11 | 11 |
| McArdles | | | | | | | | | | |
| Melones | 20 | 19 | 18 | 17 | 16½ | 16½ | 15 | 15 | 14 | 13 |
| Carson Hill | 23 | 22 | 21 | 20 | 19 | 19 | 18 | 17 | 16 | 15 |
| Angels | 26 | 24 | 23 | 22 | 21 | 21 | 20 | 18 | 17 | 16 |
| Lime Spur | 8½ | 8 | 8 | 7 | 7 | 7 | 6 | 6 | 5 | 5 |
| Sonora | | | | | | | | | | |
| Granite Spur | | | | | | | | | | |
| Standard | 6½ | 6 | 6 | 6 | 6 | 6 | 5 | 5 | 4 | 4 |
| Draper | | | | | | | | | | |
| Black Oak | | | | | | | | | | |
| Ralph | | | | | | | | | | |
| Tuolumne, Cal. | | | | | | | | | | |

EXHIBIT NO. 3.

Commodity Rates on the Sierra Railway Company of California.

Local Commodity Rates.

| From— | To— | | Rates in cents per ton of 2,000 pounds |
|--------------------|-------------------------|---|--|
| Oakdale, Cal.----- | Angels, Cal. ----- | Oils, in tank cars ----- Petroleum crude oil; petroleum gas oil; petroleum road oil; petroleum stove oil; also fuel oil, viz: Refinery residium, carloads. | \$3 10 |
| To— | From— | | |
| Oakdale, Cal.----- | Sonora, Cal. ----- | Box material (wooden) car- | |
| | Standard, Cal. ----- | loads ----- | \$1 20 |
| | Ralph, Cal. ----- | Box material (wooden) car- | |
| | Tuolumne, Cal. ----- | loads ----- | \$1 30 |
| To— | From— | | |
| Oakdale, Cal.----- | Cooperstown, Cal. ----- | Forest products ----- | \$1 50 |
| | Chinese, Cal. ----- | Lumber, lath, log, shingle, shakes, fence posts, pickets, grape stakes, lagging, box material, railroad ties, telegraph or telephone poles, (wooden), pipe material (wooden), tank material (wooden), water pipe staves (wooden) in straight or mixed carloads; doors, sash (if glazed, released); and blinds; door and window frames (wired); blocks (base, center, corner, head); and carpenters' moldings, in straight and mixed carloads or mixed with lumber, lath, shingles or shakes. | |
| | Jamestown, Cal. ----- | | |
| | Melones, Cal. ----- | | |
| | Angels, Cal. ----- | Forest products ----- | \$1 65 |
| | | Lumber, lath, log, shingle, shakes, fence posts, pickets, grape stakes, lagging, box material, railroad ties, telegraph or telephone poles, (wooden), pipe material (wooden), tank material (wooden), water pipe staves (wooden) in straight or mixed carloads; doors, sash (if glazed, released); and blinds; door and window frames (wired); blocks (base, center, corner, head); and carpenters' moldings, in straight and mixed carloads or mixed with lumber, lath, shingles or shakes. | |
| | Sonora, Cal. ----- | Forest products ----- | \$1 50 |
| | Standard, Cal. ----- | Lumber, lath, log, shingle, shakes, fence posts, pickets, grape stakes, lagging, box material, railroad ties, telegraph or telephone poles, (wooden), pipe material (wooden), tank material (wooden), water pipe staves (wooden) in straight or mixed carloads; doors, sash (if glazed, released); and blinds; door and window frames (wired); blocks (base, center, corner, head); and carpenters' moldings, in straight and mixed carloads or mixed with lumber, lath, shingles or shakes. | |
| | Ralph, Cal. ----- | Forest products ----- | \$1 60 |
| | Tuolumne, Cal. ----- | Lumber, lath, log, shingle, shakes, fence posts, pickets, grape stakes, lagging, box material, railroad ties, telegraph or telephone poles, (wooden), pipe material (wooden), tank material (wooden), water pipe staves (wooden) in straight or mixed carloads; doors, sash (if glazed, released); and blinds; door and window frames (wired); blocks (base, center, corner, head); and carpenters' moldings, in straight and mixed carloads or mixed with lumber, lath, shingles or shakes. | |

ORE AND CONCENTRATES—CARLOADS.
(Rates are in cents per ton of 2,000 pounds.)

| To Oakdale, California, from — | Actual value per ton of 2,000 pounds. (Not to exceed.) | | | | | | | | | | | | |
|--------------------------------------|--|---------|---------|---------|---------|---------|---------|---------|----------|----------|----------|----------|----------|
| | \$20.00 | \$30.00 | \$40.00 | \$50.00 | \$60.00 | \$70.00 | \$80.00 | \$90.00 | \$100.00 | \$150.00 | \$200.00 | \$250.00 | \$300.00 |
| Cooperstown, Cal. ----- | \$.70 | \$.75 | \$.85 | \$.90 | \$ 1.00 | \$ 1.15 | \$ 1.25 | \$ 1.40 | \$ 1.50 | \$ 1.65 | \$ 1.80 | \$ 1.95 | \$ 2.00 |
| Rosasco ----- | .95 | 1.05 | 1.15 | 1.25 | 1.45 | 1.60 | 1.75 | 1.95 | 2.10 | 2.30 | 2.50 | 2.75 | 2.80 |
| Keystone ----- | 1.10 | 1.20 | 1.30 | 1.45 | 1.65 | 1.80 | 2.00 | 2.20 | 2.40 | 2.65 | 2.90 | 3.10 | 3.15 |
| Chinese ----- | 1.20 | 1.35 | 1.50 | 1.60 | 1.85 | 2.05 | 2.25 | 2.50 | 2.70 | 2.95 | 3.25 | 3.50 | 3.55 |
| Quartz Junction ----- | | | | | | | | | | | | | |
| Jamestown ----- | | | | | | | | | | | | | |
| Tuolumne ----- | | | | | | | | | | | | | |
| Angels, Cal. ----- | 1.35 | 1.50 | 1.65 | 1.80 | 2.05 | 2.30 | 2.50 | 2.75 | 3.00 | 3.30 | 3.60 | 3.90 | 3.95 |

DECISION No. 1130.

IN THE MATTER OF THE APPLICATION OF WESTERN PACIFIC RAILWAY COMPANY FOR AN ORDER EXTENDING THE TIME WITHIN WHICH TO COMPLY WITH THE PROVISIONS OF CHAPTER 284, STATUTES OF CALIFORNIA, 1913, ENTITLED "AN ACT REGULATING HEADLIGHTS ON ALL LOCOMOTIVES AND PROVIDING A PENALTY FOR VIOLATIONS OF THE PROVISIONS OF THIS ACT."

Application No. 842.

Decided December 13, 1913.

Applicant granted an extension of thirty days in which to comply with the provisions of chapter 284, Statutes of 1913, regulating headlights on locomotives.

Allan P. Matthew, for Applicant.

REPORT OF THE COMMISSION.

ESHELEMAN, *Commissioner*.

The applicant is a common carrier operating an interstate railroad between San Francisco, California, and Salt Lake City, Utah, and applies for an extension of ninety days from December 4, 1913, of the time within which it shall comply with the above act under the authority which the Commission has to allow additional time within which any common carrier shall comply with said act.

In accordance with the law, this Commission required a showing to be made by the applicant, and I am of the opinion that in everything except the time of placing the original order for the headlights this applicant has attempted strictly and in good faith to comply with the statute. I believe that the order for the headlights should have been placed sooner, but it can serve no good purpose to deny the application on that ground alone, particularly since I am impressed with the good faith of the company otherwise to comply with the provisions of the act. It is in evidence that it is very difficult to secure the required headlights because of the fact that all of the roads being required to equip their engines the manufacturers are overtaxed and can not promptly fill their orders. Orders have been placed for the necessary headlights and they are being manufactured and this company is installing them as fast as they are secured from the factory. Under the circumstances it would serve no good purpose to deny the application, except that such

denial would subject this carrier to prosecution, and I do not believe such action is justified. I do not believe, however, that ninety days should be allowed. It may be that ninety days will be required, but I am inclined to allow an extension of thirty days, at the expiration of which time the company may by letter set out its condition and the number of headlights that have been installed, and the Commission being satisfied of the diligence of the company will grant such further extension as is necessary, not exceeding, however, the total amount of ninety days applied for.

I submit the following order:

ORDER.

Western Pacific Railway Company having applied to this Commission for an order of this Commission, under the authority conferred by section 1 of the fact referred to herein, granting the applicant an extension of ninety (90) days from and after the fourth day of December, 1913, within which to comply with the requirements of said statute, and a hearing having been held and being fully apprised in the premises, the Commission hereby finds as a fact that this road can not comply with the provisions of said act within the time prescribed by law, and basing its order on the foregoing finding of fact,

It is hereby ordered that the time within which the applicant shall be required to comply with said statute is extended thirty (30) days from the date of this order, and that the applicant report to this Commission at the expiration of said thirty (30) days its condition with reference to complying with said statute, and it appearing that said applicant is attempting to comply in good faith and with reasonable diligence with the requirements of said statute and has not been able to do so within the said thirty (30) days, a further extension will be granted not in excess of ninety (90) days from the fourth day of December, 1913.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1131.

IN THE MATTER OF THE APPLICATION OF SANTA CLARA
VALLEY WATER COMPANY FOR AUTHORITY TO ISSUE
NOTES.

Application No. 814.

Decided December 13, 1913.

Application of the Santa Clara Valley Water Company to issue its notes in the sum of \$4,150.00 in lieu of notes of a like amount now outstanding, granted as to \$2,655.00, and denied as to \$1,495.00; applicant permitted to issue and pledge certain bonds as security for notes herein authorized.

I. B. Beal and W. S. Clayton, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Santa Clara Valley Water Company is engaged in the business of selling water for irrigation in the territory surrounding Campbell, Santa Clara County. It derives its supply from the flood waters of Los Gatos Creek.

The present application is for authority to refund notes in the sum of \$4,150.00, and to issue a new note for \$2,500.00. The new note for the sum of \$2,500.00 is to run for less than a year, and the approval of this Commission is therefore not necessary to this issue.

Applicant has an authorized issue of 2,000 shares of stock of the par value of \$100.00 per share, of which there are outstanding 982 shares of the par value of \$98,200.00. Applicant has an authorized issue of \$25,000.00 of bonds, of which there are outstanding at the present time \$8,000.00. The other indebtedness is evidenced by notes in the sum of \$4,150.00. These notes are as follows:

| Date | Given to | Amount | Rate | Due |
|---------------|-----------------------------------|------------|------------|---------------|
| Nov. 1, 1912 | First National Bank of San Jose.. | \$2,000 00 | 6 per cent | Nov. 1, 1913 |
| Dec. 19, 1912 | First National Bank of San Jose.. | 500 00 | 6 per cent | One day. |
| Feb. 28, 1913 | First National Bank of San Jose.. | 300 00 | 6 per cent | Aug. 28, 1913 |
| Mar. 12, 1913 | First National Bank of San Jose.. | 1,350 00 | 6 per cent | One day. |

Applicant asks for authority to refund these notes, or to issue in lieu thereof a single note for the sum of \$4,150.00 to the First National

Bank of San Jose. The purposes for which these notes were originally given are stated as follows:

| | |
|--|------------|
| Upper ditch headgate | \$250 00 |
| Statler ditch headgate | 630 00 |
| Interest on bonds | 400 00 |
| Cancellation of Bank of Campbell note..... | 325 00 |
| Purchasing creek property | 1,350 00 |
| Current expense | 1,095 00 |
| Total | \$4,150 00 |

It appears that most of the stockholders in this corporation are also water users. The operation of the company has not been profitable. Having no storage facilities and depending for its supply solely upon flood waters, it has suffered losses in seasons of both heavy and light rainfall.

I am inclined to believe from all the circumstances presented that this company could be operated to greater advantage as a mutual water corporation.

In addition to its rights to certain flood waters, the company's property consists of 22 acres of land situated in the bottom of Los Gatos Creek; 10 miles of ditches; rights of way; and minor improvements.

From its present financial showing it is clear that the company should take care of at least a portion of its indebtedness through an assessment on its stock. Representatives of the company stated that the company proposed to levy an assessment in May of next year unless its receipts during the coming season should bring it a profit which might be used to extinguish a substantial portion of the indebtedness.

The company's receipts from water sales during the past seven years have varied from \$8,071.43 in 1906 to \$321.97 in 1912, with a profit of \$4,859.18 in 1906 and a loss of \$2,192.07 in 1912.

Referring to the purposes for which applicant gave the notes which it now desires to refund, we find interest on bonds \$400.00 and current expense \$1,095.00. These items are chargeable against operation, and as to these I recommend that authority to refund be denied. Applicant may either assess its stock at this time to pay the notes represented by these two items, or it may be able to make arrangements with its bank to allow a portion of these notes to remain uncollected until next May, when it can levy its assessment as originally contemplated.

Of the notes in the sum of \$4,150.00 I recommend, therefore, that the applicant be given authority to refund by new notes the sum of \$2,655.00, and that it be denied authority to refund the sum of \$1,495.00.

Applicant proposes to refund its indebtedness by issuing a new note or notes to the First National Bank of San Jose. It has not yet completed its arrangements.

Applicant stated that it might be necessary to pledge some of its treasury bonds as collateral security for the note which it proposes to

issue. I recommend that it be given authority to pledge its bonds as collateral security in such amount that the face value of the note or notes shall be not less than two thirds of the face value of the bonds pledged as collateral therefor.

Applicant's bonds mature on March 1, 1915. Its notes should mature some time prior thereto, and I shall, therefore, fix the date as not later than December 31, 1914.

I recommend the following form of order:

ORDER.

Santa Clara Valley Water Company having applied to this Commission for authority to issue its note or notes to refund four notes to the First National Bank of San Jose in the sum of \$4,150.00 and to pledge its first mortgage 5 per cent bonds as collateral security therefor; and a hearing having been held, and it appearing that the money represented by these notes was borrowed for purposes chargeable to capital account in the sum of \$2,655.00 and for purposes chargeable to operating expenses in the sum of \$1,495.00, and that the sum of \$2,655.00 was reasonably required for the purposes to which it was devoted;

It is hereby ordered that Santa Clara Valley Water Company be given authority and it is hereby given authority to issue its note or notes to the First National Bank of San Jose in the sum of \$2,655.00.

It is further ordered that the application of Santa Clara Valley Water Company to issue notes for the purposes of refunding existing indebtedness in the sum of \$1,495.00 be denied.

It is further ordered that Santa Clara Valley Water Company be given authority to pledge its first mortgage 5 per cent bonds as collateral security for said note or notes to be given the First National Bank of San Jose; said bonds to be pledged in amount such that the face value of said note or notes shall be not less than two thirds of the face value of said bonds pledged as collateral security therefor.

The authority herein given Santa Clara Valley Water Company to issue its note or notes and to pledge its bonds as security therefor is given upon the following conditions:

1. Said note or notes in the sum of \$2,655.00 shall be used to refund in part the indebtedness represented by the following notes:

| Date | Given to | Amount | Rate | Due |
|---------------|-----------------------------------|------------|------------|---------------|
| Nov. 1, 1912 | First National Bank of San Jose-- | \$2,000 00 | 6 per cent | Nov. 1, 1913 |
| Dec. 19, 1912 | First National Bank of San Jose-- | 500 00 | 6 per cent | One day. |
| Feb. 28, 1913 | First National Bank of San Jose-- | 300 00 | 6 per cent | Aug. 28, 1913 |
| Mar. 12, 1913 | First National Bank of San Jose-- | 1,350 00 | 6 per cent | One day. |

2. Said note or notes shall mature on or before December 31, 1914, and shall bear interest not to exceed 7 per cent.

3. Santa Clara Valley Water Company shall within thirty days file with this Commission a statement of the note or notes issued under this authorization; the face value thereof; the interest rate; and the date of maturity.

4. Said bonds herein authorized to be pledged as collateral security for said notes shall be returned to applicant's treasury after the maturity of said notes, and shall not thereafter be issued without the approval of this Commission.

5. Santa Clara Valley Water Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds of the sale or other disposition of the note or notes hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or other disposition of said note or notes during the previous month, the terms and conditions of such sale or disposition, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. The authority herein given applies to such notes as may be issued and to such bonds as may be pledged as collateral security therefor on or before February 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1132.

IN THE MATTER OF THE APPLICATION OF McFARLAND
TELEPHONE COMPANY FOR PERMISSION TO INSTALL
AND OPERATE A TELEPHONE PLANT, AND FOR
AUTHORITY TO PUBLISH, FILE AND PUT INTO EFFECT
RATES FOR SERVICE.

Application No. 792.

Decided December 13, 1913.

Held, Applicant granted, with certain conditions, a certificate of public convenience and necessity to construct and operate a telephone exchange in the town of McFarland and adjacent territory. Schedule of rates prescribed.

J. D. Porter, president, and *C. A. Melcher*, secretary, for Applicant.
G. D. Montgomery, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The application herein is for a certificate from the Commission that the public convenience and necessity require the establishment and operation of a telephone system in the town of McFarland and adjacent territory in Kern County, California. It involves also a connection with the system of The Pacific Telephone and Telegraph Company for service to points beyond McFarland.

At the hearing of this application, it was shown that the only telephone service afforded this community prior to the organization of the McFarland Telephone Company was a public toll station established by The Pacific Telephone and Telegraph Company for long distance telephone toll service. The town of McFarland and surrounding country has experienced a development which requires the establishment of a telephone system which will enable its residents and business houses to have telephonic communication with each other as well as with outside points. A toll station previously maintained by The Pacific Telephone and Telegraph Company does not provide local service, and an organization along mutual lines was attempted to meet the local demand. This organization has developed the necessity of establishing rates which places the company among public utilities, and, in compliance with the requirements of the Public Utilities Act, it now asks the permission of the Commission to establish and operate its system and to place a schedule of rates in effect.

Since its organization, the company has collected approximately \$1,250.00 with the intention of issuing certificates of stock at \$25.00 per share as soon as an incorporation could be effected. A lot was purchased and an office building constructed on which there is a balance of \$600.00 still owing. A switchboard has been purchased and lines have been built, partly by the company and partly at the expense of subscribers. As of the date of this application, there are nineteen subscribers connected and receiving local service.

Witnesses for the applicant testified that an attempt has been made to incorporate the company, but that some objection, which has not been fully explained, was encountered and the incorporation has not been completed. It now appears that the company will continue its business on a copartnership basis, and should its copartners elect to withdraw at any time the company may be left without the financial support which is essential to guarantee that the public interest will be sufficiently protected if this application is granted.

On the other hand, it appears that the establishment and operation of a telephone system in this community is required by the public convenience and necessity. It is my opinion that, if this company can make a satisfactory showing to the commission that it is financially able

to provide satisfactory and adequate telephone service in the community which it is seeking to serve, and which it has not yet shown, the application, with certain modifications, should be granted and I shall so recommend.

The application in its original form asks permission of the Commission for the applicant to operate its system throughout an area a certain portion of which is already purported to be served by the Delano-Linns Valley Telephone Company. Witness for the applicant testified that his company was not aware of this fact and agreed to file an amended application which would confine its operations to territory not already served by any other operating company.

It also asks the permission of the Commission to establish a rate which is the same for all classes of service provided for in its proposed schedule, regardless of the subscribers' location or of the class of service to be provided. It was suggested that the amended application provide a revised schedule for the various classes of service to be furnished and to provide for an exchange radius within which rates for exchange service shall apply and beyond which rates for other classes of service shall be provided. The amended application providing for these changes has been prepared and filed with the Commission, and the recommendations herein are applicable to the amended application.

It is also desired that connection with the toll system of The Pacific Telephone and Telegraph Company be had for service to and from points beyond McFarland. Such connection is agreeable to that company and it has filed with the Commission a copy of a proposed connecting agreement which both companies desire to enter into for such interchange of service. This proposed connecting agreement defined the territory, hereinbefore referred to, to be served by the lines of the McFarland Telephone Company, and also provides for the payment by The Pacific Telephone and Telegraph Company to the McFarland Telephone Company of 30 per cent of its originating paid tolls.

Witness for The Pacific Telephone and Telegraph Company testified that it is agreeable to that company that the McFarland Telephone Company shall take over and operate the toll station previously referred to in this opinion. This is also agreeable to the McFarland Telephone Company.

The rates which the applicant desires to charge its patrons for telephone service, as provided in the amended application, are as follows:

Business or Residence Service—

| | |
|---|------------------|
| Individual line ----- | \$2 50 per month |
| Two-party ----- | 2 00 per month |
| Four-party ----- | 1 75 per month |
| Suburban service (ten-party) ----- | 1 50 per month |
| Exchange limits to include the present town limits. | |

As to the proposed rates, it is to be noted that no differentiation as between rates for business and residence service has been provided for.

It is a common practice among telephone companies generally, and one which the Commission believes to be entirely justifiable, to provide for a differentiation in rates as between these two general classes of service. It is also to be noted that, while a rate has been provided for suburban service, none has been provided for what is commonly known as farmer line service. Under suburban rates, subscribers' lines and subscribers' station equipment are usually provided and maintained at the expense of the telephone company. Under farmer line rates, subscribers' lines, up to a certain point, and subscribers' station equipment are usually provided and maintained at the expense of subscribers. I shall recommend that this rate schedule provide for these two latter classes of service for subscribers located beyond the exchange radius and that it be further modified to provide rates as follows:

Business Service—

| | |
|----------------------------------|------------------|
| One-party (individual line)----- | \$2 50 per month |
| Two-party ----- | 2 00 per month |
| Four-party ----- | 1 75 per month |
| Suburban (ten-party) ----- | 1 75 per month |

Residence Service—

| | |
|-----------------------------------|------------------|
| One-party (individual line) ----- | \$2 00 per month |
| Two-party ----- | 1 75 per month |
| Four-party ----- | 1 50 per month |
| Suburban (ten-party) ----- | 1 50 per month |

The above rates to apply for wall sets. Desk or portable sets 25 cents per month additional.

Farmer line service, business stations, 50 cents per month; residence stations, 25 cents per month.

Mileage charges beyond exchange radius, business or residence, one-party 50 cents per month per quarter mile or fraction thereof; two-party 35 cents per quarter mile or fraction thereof; four-party 25 cents per quarter mile or fraction thereof.

The present town limits, according to testimony introduced at the hearing, include an area one mile square. It is evident that to adopt this limit as the exchange limit may result in unjust discrimination in rates if a mileage charge for subscribers located beyond the exchange limits is to be allowed, since the distance to any point located at the extreme town limits may not be the same from the center of the town or from any given point within the town as the distance to other points located at its extreme limits. To obviate this difficulty, an exchange radius may be established by circumscribing a circle around the central exchange sufficiently large to include the town limits. I shall accordingly recommend that a radius of three quarters of a mile from the central exchange be established as the exchange radius within which service shall be provided at exchange rates. If this radius is not sufficiently large to include all of the present town limits, the applicant may, if it desires, make application to the Commission for its further extension.

As a protection to the telephone company against unprofitable construction costs, it is customary to establish a minimum limit of subscribers for which new lines shall be built under suburban and farmer line rates. This is entirely reasonable, and I shall recommend that new suburban lines shall be built a distance not to exceed three miles from the central exchange for a minimum of four subscribers and not to exceed five miles from the central exchange for a minimum of five subscribers; service under farmer line rates to be provided for a minimum of five subscribers to one line or for a lesser number than five upon the payment to the telephone company of the equivalent in subscribers' rentals of five stations. Under farmer line rates, the telephone company to be required to furnish switchboard or central office connection and circuit to the exchange limits and maintenance of same; the subscribers to furnish lines from their premises to the exchange limits and the necessary telephone sets and maintenance of same.

The following order is recommended:

ORDER.

Application having been made to this Commission by McFarland Telephone Company for permission to install and operate a telephone plant in McFarland and adjacent territory in Kern County, California, as a public utility and for authority to publish, file and put into effect rates for service; and a public hearing having been held thereon, and it appearing to this Commission that the public convenience and necessity will be subserved thereby,

It is hereby ordered that the application herein be granted, provided that on or before ninety (90) days from the effective date of this order the McFarland Telephone Company shall make sufficient and satisfactory showing to this Commission that it is and will be financially able to furnish necessary and adequate telephone service within the territory covered by this application and more particularly described in that certain proposed connecting agreement between this applicant and The Pacific Telephone and Telegraph Company and filed with this application, and provided further that a radius of three quarters ($\frac{3}{4}$) of a mile from the central exchange shall be established within which radius exchange service shall be provided at rates as follows:

| | Wall set | Desk set |
|----------------------------------|----------|----------|
| BUSINESS SERVICE. | | |
| One-party (individual line)----- | \$2 50 | \$2 75 |
| Two-party ----- | 2 00 | 2 25 |
| Four-party ----- | 1 75 | 2 00 |
| RESIDENCE SERVICE. | | |
| One-party (individual line)----- | \$2 00 | \$2 25 |
| Two-party ----- | 1 75 | 2 00 |
| Four-party ----- | 1 50 | 1 75 |

And provided further that service beyond the exchange radius of three quarters ($\frac{3}{4}$) of a mile from the central office shall be provided at rates as follows:

| | Wall set | Desk set |
|-------------------------------------|----------|----------|
| Suburban (ten-party) business..... | \$1 75 | \$2 00 |
| Suburban (ten-party) residence..... | 1 50 | 1 75 |

Farmer line, business, 50 cents.

Farmer line, residence, 25 cents.

MILEAGE CHARGES.

The following charges for mileage for exchange service beyond the exchange radius of three quarters ($\frac{3}{4}$) of a mile from the central exchange shall apply in addition to the rates herein provided for exchange service:

One-party, 50 cents per month per quarter mile or fraction thereof.

Two-party, 35 cents per month per quarter mile or fraction thereof.

Four-party, 25 cents per month per quarter mile or fraction thereof.

Suburban or farmer line service to be provided under the rates herein only beyond the exchange radius as follows:

Suburban service shall be furnished for not less than four subscribers per line for the first three miles of line required from the central exchange and for not less than five subscribers for the first five miles of line required from the central exchange. The maximum number of subscribers to be connected to one line shall not exceed ten.

Farmer line service for a minimum of five subscribers per line or for a lesser number than five upon the payment to the telephone company of the equivalent in monthly rentals of five subscribers' stations. Under this rate for farmer line service, the telephone company will furnish and maintain central office connection and subscribers' lines to the exchange limits; the subscribers to furnish circuits from their premises to the exchange limits and the necessary telephone sets and maintenance of same.

It must be distinctly understood that these provisions with reference to suburban service are based on the particular facts of this case and that they are not to serve as a precedent in any other case.

And provided further that this permission is not to be taken as approval of the rates since the Commission has not as yet passed upon their ultimate reasonableness.

This order to be and become effective upon the filing with this Commission on the part of the applicant of a schedule of rates as herein provided and on the part of The Pacific Telephone and Telegraph Company of a copy of the duly executed connecting agreement hereinbefore referred to.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1133.

THE CITY OF EAGLE ROCK
vs.
EAGLE ROCK WATER COMPANY.

Case No. 435.

Decided December 13, 1913.

Held, That the present rates of defendant are insufficient to produce a reasonable return on plant investment. Compensatory rates prescribed.

Held, That defendant be required to install all meter and service connections at its own expense.

Hartley Shaw, for Plaintiff.

Garrett, Bush & Garrett, for Defendant.

Leon Romer, for certain consumers.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The city of Eagle Rock, the plaintiff in this case, is a city of the sixth class, situated in Los Angeles County about seven miles distant from the city of Los Angeles. The inhabitants of the city are supplied with water by the Eagle Rock Water Company. Since this company acquired the Backus water system, in accordance with the authority granted by this Commission in its order upon Application No. 813, in the matter of the application of Mary E. Backus to sell her water system in the city of Eagle Rock to the Eagle Rock Water Company in exchange for 7,596 shares of stock of that company, the Eagle Rock Water Company is the only water utility supplying the inhabitants of the city of Eagle Rock.

On June 19, 1913, an election was held in the city of Eagle Rock in accordance with the provisions of the Hewitt Election Act, the result of the election being that the municipality voted into this Commission the powers of control over water corporations theretofore vested in the municipality.

On July 21, 1913, the city of Eagle Rock filed a complaint in this case. The complaint is directed chiefly against the rates of the Eagle Rock Water Company. At the present time this company is charging each of its consumers a base rate of 75 cents per month, and in addition a charge of 10 cents for each 100 cubic feet of water used. These rates are alleged in the complaint to be unreasonable and this Commission is asked to fix a valuation upon the plant of the Eagle Rock Water Company and to prescribe the rates to be charged by that

company. In the complaint the city also requests that the Commission order the Eagle Rock Water Company to install meters and service connections at its own expense.

It appears that the practice of the company in the past has been to charge a fee for installing meters and making service connections, the fees ranging from \$15.00 to \$50.00, according to the size of the connection. The city also requests that this Commission order the defendant company to install and maintain in the city of Eagle Rock an office, at which bills may be paid and communications in regard to the water service may be received. At present the company maintains an office only in the city of Los Angeles.

In its answer the Eagle Rock Water Company denies each of the allegations of the complaint that the rates and practices of the company are unreasonable. The answer requests that this Commission fix a valuation upon the defendant company's system and prescribe the rates to be charged for the supply of water.

I shall first consider the valuation to be given to the defendant water company's system for the purpose of fixing the rates in this proceeding. The defendant company has submitted to the Commission a valuation of its water system amounting to \$127,841.00. This Commission's engineering department made a valuation of this system amounting to \$95,465.00. The chief items of difference between the valuations submitted by the company and the valuation fixed by this Commission are two items of meters, \$10,466.00, and service, \$7,712.00, which are included in the company's estimate but which are omitted in the Commission's estimate. It appeared from the evidence introduced in this case that all of these meters and service connections represented by these sums were paid for entirely by the consumers. I believe that on the facts of this case I am being absolutely fair to the defendant water company in excluding from the valuations submitted by the company these two items of "meters" and "service." The remaining difference between the valuation submitted by the company and this Commission is due to the fact that the Commission allows somewhat less than was estimated by the company for the value of the following items:

| | |
|---------------------|-------------|
| Real estate | \$2,700 00 |
| Pipe lines | 7,334 00 |
| Backus system | 2,895 00 |
| Miscellaneous | 1,269 00 |
| | <hr/> |
| | \$14,198 00 |

This amount of \$14,198.00 added to the above value for meters and service totals the difference in the amount submitted by the company.

I am of the opinion that the valuation of \$95,465.00 estimated by this Commission's engineering department is at least a fair valuation to be allowed the defendant water company in prescribing the rates to be

charged for the supply of water to the city of Eagle Rock and vicinity. I have estimated that allowing for reasonable operating expenses and for a fair return upon these valuations the defendant water company should be entitled to earn approximately \$25,531.00 annually. To obtain this gross income I recommend that the defendant company be authorized to put into effect on and after January 1, 1914, a minimum rate of \$1.25, which minimum rate will entitle the consumer to 400 cubic feet of water, and that a rate of 15 cents per 100 cubic feet be imposed for all water used in excess of the 400 cubic feet covered by the minimum.

I recommend also that the company be required to install meters and service connections at its own expense.

I have given careful consideration to the request of the city of Eagle Rock that the defendant water company be required to maintain an office in the city of Eagle Rock. I am of the opinion, however, that at the present time it will be unreasonable to require the company to establish such an office. Evidence was introduced at the hearing showing that there is very good street car service between the city of Eagle Rock and Los Angeles, at which point the defendant water company now has its office. It further appears that there is no other utility which now maintains its office in the city of Eagle Rock. Of course, the expense of maintaining an office in the city of Eagle Rock would have ultimately to be borne by the consumer, and while it might be desirable in this instance to have an office in the city of Eagle Rock, I do not believe that it is absolutely necessary. I can readily understand, however, that the time may come when it will be proper to require the company to maintain an office in the city of Eagle Rock. I shall refrain, however, from making any recommendation at this time concerning this point.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled case, and the Commission being fully advised in the premises, the Commission finds as a fact that the existing rates for water charged by defendant are not compensatory and that the following rates are just and reasonable rates to be charged by the defendant water company for the supply of water to the inhabitants of the city of Eagle Rock and vicinity: \$1.25 per month for 400 cubic feet, or less; 15 cents for each additional 100 cubic feet of water. Basing its order upon the findings contained herein,

It is hereby ordered that the Eagle Rock Water Company be, and it hereby is, authorized to put into effect on and after January 1, 1914, for the supply of water to the inhabitants of the city of Eagle Rock and vicinity, the following rates: \$1.25 per month for 400 cubic feet, or less; 15 cents for each additional 100 cubic feet of water.

It is further ordered that from the date of this order the Eagle Rock Water Company shall, at its own expense, install all meters and service connections.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1134.

IN THE MATTER OF THE APPLICATION OF TONOPAH AND
TIDEWATER RAILROAD COMPANY FOR AN ORDER
AUTHORIZING THE ISSUANCE AND SALE OF CERTAIN
BONDS.

Application No. 836.

Decided December 13, 1913.

Application of the Tonopah and Tidewater Railroad Company to issue bonds of the face value of \$364,000.00 denied.

Walter D. Cole, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Tonopah and Tidewater Railroad Company for an order authorizing the issue of bonds in the face value of 75,000 pounds sterling (\$364,000), divided into bonds of the face value of 100 pounds sterling (\$486) each.

The purpose for which the proceeds of the sale of these bonds is to be used is stated in the application as follows: "A narrow gauge railroad of approximately 16.95 miles in length, situate in the county of Inyo, State of California, connecting the Biddy McCarty borax mine, which is the property of Pacific Coast Borax Company, with the Ryan branch of the Tonopah and Tidewater Railroad, the same being designed primarily to carry the product of the aforesaid mine from the point of location thereof to the point of connection of the proposed railroad with the Ryan branch of the Tonopah and Tidewater Railroad Company, and further to transport freight, passengers, mail, baggage and express matter. The proposed road will be, when completed, a branch of the Tonopah and Tidewater Railroad."

The testimony at the hearing shows that applicant obtains about 60 per cent of its business from the above mentioned borax properties and 40 per cent from independent shippers.

Applicant has authorized capital stock of \$1,000,000.00, all of which is outstanding and a bonded indebtedness of \$3,285,344.10, and other indebtedness of \$1,110,043.42, making a total indebtedness of \$4,395,387.52.

It is admitted that applicant has not property of a value equal to this indebtedness and it has been unable to pay all of its bond interest out of earnings, the deficit of this interest having been paid by the Borax Consolidated, Limited, of London, and it is proposed that said Borax Consolidated, Limited, of London, guarantee the principal and interest of the bonds herein asked to be authorized.

Inasmuch as these bonds are to be sold at less than par, it is evident that if this application be granted the property will be still further burdened, and unless the guarantee of the Borax Consolidated, Limited, of London, is such as to entirely secure the payment of principal and interest of these bonds, and that the total obligations can be safely carried by applicant without the imposition of unduly high rates on the shippers using this road, the issuance of these proposed bonds would not be warranted.

No sufficient proof has been furnished of the value of the guarantee of the Borax Consolidated, Limited, of London, and therefore, for the reasons above stated, I recommend that the application be denied, and submit herewith the following form of order:

ORDER.

Application having been made by Tonopah and Tidewater Railroad Company for an order authorizing the issue of bonds of the face value of 75,000 pounds sterling (\$364,000), divided into bonds of the face value of 100 pounds sterling (\$486) each, and a public hearing having been held thereon, and it appearing to the Commission that for the reasons set out in the foregoing opinion this application should be denied,

It is hereby ordered by the Railroad Commission of the State of California that this application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1135.

IN THE MATTER OF THE APPLICATION OF COACHELLA VALLEY ICE AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED THOUSAND DOLLARS.

IN THE MATTER OF THE APPLICATION OF HOLTON POWER COMPANY FOR AUTHORITY TO GUARANTEE THE PRINCIPAL AND INTEREST OF BONDS OF COACHELLA VALLEY ICE AND ELECTRIC COMPANY OF THE FACE VALUE OF THREE HUNDRED THOUSAND DOLLARS.

Application No. 839.

Decided December 13, 1913.

Held. Applicant authorized to issue, under certain conditions, bonds of the face value of \$300,000.00, proceeds to be used in the construction of a transmission line from Banning to El Centro and for the construction of a substation and distributing plant in the town of Coachella.

Held. Holton Power Company authorized to guarantee payment of principal and interest of bonds herein authorized.

W. F. Holt, for Applicants.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application of Coachella Valley Ice and Electric Company to issue its bonds of the face value of \$300,000.00 for the purpose of constructing an electric transmission line from Banning, in Riverside County, California, through the Coachella Valley and the station of Imperial Junction, in Imperial County, to a connection with the electric system of the Holton Power Company at El Centro, California, and for the installation of a substation and electric distribution system at Coachella, as will hereinafter appear in greater detail. The Holton Power Company also applies for authority to guarantee the principal and interest of said bonds.

Coachella Valley Ice and Electric Company was incorporated on March 11, 1911, for the purpose, among others, of engaging in the manufacture and sale of ice, the construction and operation of cold storage plants and the construction and operation of electric plants for the generation, distribution and sale of electric current for light, heat and power. The authorized stock consists of 3,000 shares of the par value of \$100.00 each, having a total par value of \$300,000.00. This stock has already been issued. The largest stockholders are Holton Power Company, owning 1,568 shares, and W. F. Holt, owning 1,302 shares.

On or about March 18, 1912, the company executed its mortgage or deed of trust to the Southern Trust Company to secure an authorized issue of bonds of the face value of \$300,000.00, to bear interest at the rate of 6 per cent per annum. These bonds are to consist of 140 bonds of the denomination of \$1,000.00 each, and 320 bonds of the denomination of \$500.00 each, and are to become payable in twenty successive series, each series to comprise seven of said bonds of the denomination of \$1,000.00 each and sixteen of the denomination of \$500.00 each, the first series to become payable on January 1, 1937, and a like series to become payable on the first day of January of each and every year thereafter until all shall become payable, the last series being payable on January 1, 1956. At the option of the mortgagor the bonds may be redeemed on any interest payment date at 105 per cent of the face amount thereof. Although the mortgage to secure these bonds has been duly executed and delivered, no bonds have actually been issued. Application is now made to this Commission for authority to issue all the bonds so authorized.

Applicant has outstanding a promissory note for some \$6,000.00, and a few small bills due on open account, but has owing to it notes considerably in excess of said note for \$6,000.00.

Applicant has been engaged in the ice and cold storage business at Coachella, on the line of the Southern Pacific Company. About one half of its ice has been sold under contract to the Pacific Fruit Express and the other half to local purchasers. The application shows that during the year 1912 the company made a net income after paying operating expenses and taxes, amounting to \$3,161.91, and that for the first nine months of the year 1913 the company's net income, without making any deductions for depreciation, was \$9,250.25. The testimony shows that the property owned by this company and its present estimated value is as follows: 7.45 acres of land in Coachella, \$1,000.00 to \$5,000.09; ice plant at Coachella, \$62,000.00. Mr. W. F. Holt testified that in his opinion the present value of the property is about \$70,000.00.

This company now proposes to construct an electric transmission line for the purpose of transmitting electric energy from the town of Banning, on the line operated by the Southern Pacific Company in Riverside County; thence extending easterly approximately one half mile to a station, Whitewater; thence in a southeasterly direction, paralleling the line of the railway operated by the Southern Pacific Company, to the town of Indio, in Riverside County; thence in a southeasterly direction through the town of Coachella, in general paralleling the line of railway, through the station of Imperial Junction; thence nearly due south past the stations of Estelle, Bernice and Rockwood; thence through the towns of Brawley and Imperial to the town of El Centro—a total distance of approximately 125 miles. The company

expects to build also a substation and distributing system at Coachella. The cost of this work is estimated by applicant as follows:

| | |
|--|--------------|
| 125 miles of 55,000-volt power line, 18 poles per mile, capacity 2,500 kilowatts | \$211,887 50 |
| Substation at Coachella | 11,768 00 |
| Distributing system at Coachella : | |
| 40 miles pole line..... | \$10,000 00 |
| Transformers | 8,000 00 |
| Office building and substation..... | 3,000 00 |
| Town lighting systems | 4,000 00 |
| Engineering and incidentals | 3,000 00 |
| Total | 58,000 00 |
| Grand total | \$281,655 50 |

The details of cost of the transmission line and of the substation appear in exhibit C attached to the application, to which exhibit reference is hereby made.

Applicant testified that for the present it would probably not be necessary to expend more than \$40,000.00 for the distributing system in the Coachella Valley, so that the entire amount of money now necessary is not to exceed the sum of \$263,655.50.

The purpose of the construction of the transmission line is primarily to secure electric energy from the Southern Sierras Power Company at Banning, and to transmit the same to the Holton Power Company at El Centro. The latter company will then distribute the electric energy to its customers in different portions of Imperial County. Applicant is now under contract with Southern Sierras Power Company, dated November 8, 1913, under which contract the Southern Sierras Power Company agrees to deliver to the Coachella Ice and Electric Company for the period of forty-three years all the electric energy which the latter company may need, and not in excess of a maximum demand of 3,000 kilowatts at any one time, at the rate of one cent per kilowatt hour measured at the point of delivery at Banning, with a minimum payment during the first five years of \$18,000.00 per year, and during the remainder of the contract of \$28,000.00 per year. In order to comply with this contract the Southern Sierras Power Company agrees to construct and thereafter maintain a 55,000-volt, 3-phase, 60-cycle electric transmission line from its steam plant at San Bernardino, California, to a point at or near the city of Banning to connect with the transmission line to be constructed by the Coachella Valley Ice and Electric Company. The electric energy to be supplied by the Southern Sierras Power Company will ordinarily be hydroelectric energy transmitted from the company's power plants in Inyo County, but in case of necessity energy developed in the company's steam plant in San Bernardino may be substituted.

The Coachella Valley Ice and Electric Company has also entered into a contract with the Holton Power Company, likewise dated November 8, 1913, for the sale to the latter company of such electric energy as it may need, for the price of two cents per kilowatt hour, measured at the consumer's substation at El Centro. The term of this contract is likewise forty-three years and the minimum payment to be made is \$36,000.00 per year for the first five years and \$56,000.00 per year for each year thereafter to the end of the term.

Mr. W. F. Holt, the applicant's president, testified that the chief purpose for entering into these arrangements and for constructing the transmission main from Banning to El Centro is to provide for cheaper electric energy and for a more adequate supply. The Holton Power Company at present operates a hydroelectric plant for the generation of electricity at Holtville and two plants, one operated by steam and one operated by producer gas, at El Centro. He testified that the operation of the plant at Holtville is uncertain because of failures in water supply, and that the operation at El Centro is costly. He testified that the average cost of producing one kilowatt hour of electric energy in the Holtville plant is one cent. Referring now to the El Centro plants, he testified that the average cost of producing one kilowatt hour of electric energy during the month of May, 1913, including a 6 per cent depreciation and 6 per cent interest, was 3.531 cents, and that the average cost of producing electric energy in these plants throughout the year is somewhere in the vicinity of 2.75 cents. He accordingly estimates that a very material saving will be effected by the Holton Power Company by purchasing the electric energy from the Coachella Valley Ice and Electric Company for the sum of 2 cents. He testified further that the demand on the plants of the Holton Power Company for electric energy has now reached the limit of their capacity to supply, and that the company was confronted with the alternative of either making expensive additional installations or of securing electric energy in the manner now proposed. He testified that the cost of installing additional plants would be far in excess of the cost under the method proposed. He stated furthermore that the electric business of the Holton Power Company increased 50 per cent last year, and 40 per cent during the preceding year, and that the increasing business of Imperial County absolutely requires a large supply of additional electric energy, and that in his judgment the plan now proposed is the most feasible and least expensive plan for attaining this end.

Referring now to the question of whether or not the Coachella Valley Ice and Electric Company would be successful financially if it entered into these contracts and constructed the transmission main and the local distributing system at Coachella, Mr. Holt testified that he had given full consideration to this question, and presented to the Commission a

letter from himself to the vice-president of the Southern Sierras Power Company dated November 29, 1913, showing that if his estimates concerning both the ice and the electric business of the company prove correct, the company would be able to pay all operating expenses, interest on the bonds, depreciation, taxes and insurance, and still make a net profit of \$18,600.00 per year. While it is not necessary for the Commission to pass on the accuracy of this estimate, the Commission investigated the subject in order to see whether there would be a reasonable assurance of ability on the part of the applicant to pay the interest on the bonds which it is proposed to issue.

Applicant presented to the Commission a letter dated November 7, 1913, from Wilson, Cranmer & Co., of Denver, Colorado, agreeing to purchase the entire issue of \$300,000.00 of bonds at 80 per cent of their face value plus accrued interest. This purchase is subject to the guarantee of the bonds, both principal and interest, by Holton Power Company, and to the execution of the contract for the purchase of power from the Southern Sierras Power Company, and subject to the execution of a contract for the sale of power to the Holton Power Company, with a minimum guarantee from the Holton Power Company sufficient to take care of the interest on the bonds, and also subject to the approval of this Commission. The buyers agree if these conditions are complied with, to pay for bonds of the face value of \$100,000.00 on January 1, 1914, and to pay for bonds of the face value of \$25,000.00 on the first day of each succeeding month until the entire issue is paid for.

Mr. Holt testified that this was the best arrangement which it was possible for him to make, and that he would have been unable to make this arrangement if it had not been for the guarantee of the Holton Power Company, and also for the desire of the backers of the Southern Sierras Power Company, who are to take the bonds, to finance this project. When the Commission drew Mr. Holt's attention to the fact that the company is to pay in reality $7\frac{1}{2}$ per cent interest on its money, and that the bonds are to run all the way up to 1956, Mr. Holt stated that it might be necessary hereafter to call in the outstanding bonds and to replace them with bonds bearing lower interest, if it should hereafter appear that money could be secured at a lesser figure.

If this Commission authorized the sale of the bonds at 80 per cent of their face value plus accrued interest, a sum somewhat in excess of \$240,000.00 will be derived in this manner and will be invested in the property. Adding thereto the present value of \$70,000.00, the company will have bonds of the face value of \$300,000.00 outstanding against a property of the cost of \$310,000.00. The margin between the face value of the bonds and the amount of property would be smaller than this Commission would allow if it were not for the fact that the guarantee

of the Holton Power Company takes the place of additional margin in value of property. Before referring to this guarantee I desire to draw attention to the fact that applicant agreed that before any dividends were paid it would amortize one third of the discount on the bonds, amounting to one third of \$60,000.00, and that it would thereafter amortize each year out of earnings at least the proportionate amount of discount still outstanding, before dividends were declared. This condition will be inserted in the order.

I desire now to consider the application of the Holton Power Company for authority to guarantee the principal and interest of the bonds. It has already appeared that considerable advantage will accrue to the Holton Power Company, both in the cheaper cost of electric energy which it is at present securing, and in a cheaper electric energy to be used in the rapidly extending electric business in Imperial County. The directors of the Power Company have accordingly authorized the endorsement by Holton Power Company on each bond of the Coachella Valley Ice and Electric Company of a guarantee to pay both the principal and the interest on the bond in case of default on the part of the Coachella Valley Ice and Electric Company. With reference to the ability of the Holton Power Company to meet this obligation, Mr. Holt testified that during the last year the company, after paying operating expenses and all fixed charges, had showed a net profit of \$40,000.00. I find both that it would be of advantage to the Holton Power Company to secure the execution of this project by guaranteeing the payment of the bonds and the interest, and that the power company has the financial ability to meet the guarantee.

I recommend that both applications be granted, and submit herewith the following form of order:

ORDER.

Coachella Valley Ice and Electric Company having applied to the Railroad Commission for an order authorizing the issue of its bonds of the face value of \$300,000.00 to bear interest at the rate of 6 per cent per annum, payable serially on the first day of January, 1937, and on the first day of January of each and every year thereafter until all shall have been paid, the last series made to mature on the first day of January, 1956, for the purpose of constructing an electric transmission line from Banning, in Riverside County, to El Centro, in Imperial County, and of constructing a substation and electric distributing system at Coachella, Riverside County, California, and Holton Power Company having applied for an order authorizing it to guarantee the payment of the principal and interest of said bonds, and a public hearing having been held on said applications, and the Commission finding that the purposes for which the proceeds of said bonds are to be used

are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Coachella Valley Ice and Electric Company be and the same is hereby authorized to issue its bonds of the face value of \$300,000.00, bearing interest at the rate of 6 per cent per annum, consisting of 140 bonds of the denomination of \$1,000.00 each and 320 bonds of the denomination of \$500.00 each, numbered consecutively from 1 to 460, in the order in which they are to mature in so far as their maturity, in consecutive numbers as hereinafter provided, will permit of said consecutive numbering, said bonds to bear date of January 1, 1912, and to bear interest at the rate of 6 per cent per annum, payable semiannually on the first day of January and the first day of July of each year, said bonds to be payable in twenty successive series, each series to comprise seven of said bonds of the denomination of \$1,000.00 each and sixteen of said bonds of the denomination of \$500.00 each, the first of said series of bonds to be payable on the first day of January, 1937, and a like series to become payable on the first day of January of each and every year thereafter until all shall be paid, the last series to mature on the first day of January, 1956, said bonds to be subject to redemption before maturity at the option of the obligor on any interest payment date, at 105 per cent of the face amount, together with accrued interest, and to be secured by mortgage or deed of trust to The Southern Trust Company, dated January 1, 1912, on the following conditions and not otherwise:

(1) Coachella Valley Ice and Electric Company shall sell said bonds so as to net in cash not less than 80 per cent of their face value plus accrued interest:

(2) Coachella Valley Ice and Electric Company shall use the proceeds of said bonds for the following purposes, and none others, to wit:

(a) For the construction of an electric transmission line for the purpose of transmitting electric energy from the town of Banning, in Riverside County, to the town of El Centro, in Imperial County, for the items specified in Exhibit C, which is attached to the application and hereby referred to, not to exceed the sum of \$211,887.50;

(b) For the construction of a substation at Coachella, for the items specified in said Exhibit C, to which reference is again hereby made, not to exceed the sum of \$11,768.00;

(c) For the construction of an electric distributing system in and about Coachella, for the items specified in the opinion which precedes this order, to which opinion reference is hereby made, not to exceed the sum of \$40,000.00.

(3) Coachella Valley Ice and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be

issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the sale or disposition of such bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

(4) Coachella Valley Ice and Electric Company shall declare no dividends until one third of the discount on the bonds hereby authorized to be sold shall have been amortized from earnings, and during each subsequent year thereafter until said discount shall have been completely amortized from earnings, said company shall declare no dividends until the proportionate amount of the remaining unamortized discount shall have been amortized.

(5) The authority hereby given to issue bonds shall apply only to bonds issued prior to January 1, 1915.

(6) This order shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act as amended.

And it is further ordered that Holton Power Company be and the same is hereby authorized to endorse on each of the foregoing bonds its guarantee to make due payment of the principal and interest thereon at the time and in the manner specified in the deed of trust or mortgage securing the same.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1136.

IN THE MATTER OF THE APPLICATION OF THE SAN DIMAS
WATER COMPANY FOR AN ORDER AUTHORIZING THE
ISSUE OF BONDS OF THE FACE VALUE OF FIFTEEN
THOUSAND DOLLARS.

Application No. 835.

Decided December 13, 1913.

Held. Applicant authorized to issue bonds of the face value of \$15,000.00, proceeds to be applied to the acquisition of new property and in betterments and improvements to same.

E. H. Sanford, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue bonds of the face value of \$15,000.00 for the purposes hereinafter specified. Applicant is a water company supplying water to its stockholders in and around San Dimas, Charter Oak and a part of Lordsburg. As one of its stockholders, namely, the San Dimas-Charter Oak Domestic Water Company, is clearly a public utility, it would seem to follow under the provisions of chapter 80 of the Laws of 1913 that the San Dimas Water Company is also a public utility. Application for authority to issue the bonds herein referred to is made on the theory that the San Dimas Water Company is such public utility, so that there may be no question concerning the validity of the bonds.

A detailed statement concerning the financial affairs and the business of applicant will be found in this Commission's opinion and order in its decision, No. 424, rendered on January 27, 1913, in Application No. 338, to which opinion and order reference is hereby made. The Commission therein authorized applicant to issue its thirty-year 6 per cent bonds of the face value of \$100,000.00, to be sold at not less than 90 per cent of their face value, the proceeds to be used partly to refund certain bonded and other indebtedness and in part for the acquisition of property necessary in the development of the water company's business. The bonds so authorized have been sold for the sum of \$90,000.00 and the proceeds, with the exception of \$172.78, now remaining on hand, have been devoted to the purposes authorized in the Commission's said order.

It is now desired to issue additional bonds of the face value of \$15,000.00 at not less than 90 per cent of their face value plus accrued interest, and to devote the proceeds thereof, together with the remaining sum of \$172.78, to the following purposes:

| | |
|---|--------------------|
| (1) To complete payment for drilling and casing Lordsburg wells..... | \$2,941 91 |
| (2) To pay for a site for the Charter Oak well and for the well and equipment | 6,442 22 |
| (3) To complete payment on the Lordsburg water mains and connections | 2,622 08 |
| (4) Partial payment on Lordsburg lands..... | 11,400 00 |
| Total | \$23,406 21 |

The balance of the foregoing amount which can not be secured from the sale of the bonds is to be secured by an assessment on the stock.

The Lordsburg property and wells were acquired for the purpose of increasing applicant's supply of water and are referred to in this Commission's said decision, No. 424.

The Charter Oak well is located some one and one half miles west of San Dimas and was acquired for the same purpose after the date of said

decision. It appears that the acquisition of these various properties is necessary in the conduct of the applicant's business and that the authority requisite should be granted.

Applicant also asks authority to pay a promissory note for \$2,500.00, dated August 14, 1913, payable three months after date, to the First National Bank of Pomona. The note is now overdue. Its proceeds were used for expenditures in connection with said wells, properly chargeable to capital account.

Applicant proposes to meet the interest on the additional bonds by assessments on the stock. The actual cost of this supply of water is paid by the users of water according to their use, while permanent improvements are assessed upon all the stockholders.

I find that the purposes for which the proceeds of said bonds are to be used are not reasonably chargeable to operating expenses or to income and recommend that the application be granted. I submit herewith the following form of order:

ORDER.

San Dimas Water Company having applied to the Railroad Commission for an order authorizing the issue of its 6 per cent thirty-year bonds of the face value of \$15,000.00 for the purpose hereinafter specified, and a public hearing having been held upon such application, and the Commission finding that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Dimas Water Company be and the same is hereby authorized to issue its thirty-year 6 per cent bonds of the face value of \$15,000.00, of the denomination of \$500.00 each, bearing interest at the rate of 6 per cent per annum, payable semiannually, and secured by a mortgage and deed of trust to Title Guarantee and Trust Company of Los Angeles, California, on the following conditions, and not otherwise, to wit:

(1) San Dimas Water Company shall sell said bonds so as to net in cash not less than 90 per cent of their face value plus accrued interest.

(2) San Dimas Water Company shall use the proceeds of said bonds, in so far as they go, for the following purposes, and not otherwise, to wit:

| | |
|---|------------|
| (a) To complete payment for drilling and casing Lordsburg wells..... | \$2,941 91 |
| (b) To pay for a site for the Charter Oak well and for the well and equipment | 6,442 22 |
| (c) To complete payment on the Lordsburg water mains and connections | 2,622 08 |
| (d) Partial payment on Lordsburg lands..... | 11,400 00 |

| | |
|--|-------------|
| Total | \$23,406 21 |
| (c) To pay promissory note for \$2,500.00, dated August 14, 1913, payable to First National Bank of Pomona, three months after date, and bearing interest at the rate of 6 per cent per annum. | |

(3) San Dimas Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the sale or disposition of said bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of said moneys.

(4) The authority hereby given to issue bonds shall apply only to bonds issued on or before the first day of July, 1914.

(5) The authority hereby given to issue bonds shall not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of December, 1913.

DECISION No. 1137.

IN THE MATTER OF THE APPLICATION OF GRIFFIN'S
TRANSFER AND STORAGE COMPANY FOR AN ORDER
AUTHORIZING THE ISSUE OF STOCKS AND BONDS.

Application No. 767.

Decided December 16, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

EDGERTON, *Commissioner*.

Wherefore the order heretofore made herein, dated the fifth day of December, 1913, provided, in part, as follows:

"Provided, however, as a condition precedent to the effectiveness of this order and before any of the stock or bonds herein authorized shall be issued, applicant shall file with this Commission and obtain its approval of, a complete detailed statement and estimate of cost of the property to be acquired, the service and facilities to be produced or improved and for which the money, other than the \$22,000.00 for trucks and automobiles, which is realized from the sale of bonds is to be used."

And applicant having submitted a complete detailed statement and estimate of cost of the property to be acquired, and the service and facilities to be produced or improved and for which the moneys realized from the sale of the bonds authorized to be issued in said order are to be used, and it appearing to the Commission that said purposes are proper; now, therefore,

It is hereby ordered that said detailed statement and estimate of cost on file herein is hereby approved, and applicant is hereby authorized to apply the proceeds from the sale of the bonds authorized to be issued in said order to the purposes stated in said order, and in said detailed statement and estimate of cost on file herein.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of December, 1913.

DECISION NO. 1138.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN
PACIFIC COMPANY TO MAKE CERTAIN TEMPORARY
CHANGES IN ITS STATION FACILITIES AT DUTCH
FLAT, CALIFORNIA.

Application No. 782.

Decided December 18, 1913.

Held, Temporary abandonment of applicant's station facilities at Dutch Flat not warranted; application denied. Applicant permitted to move carload freight upon temporary spur track for a period not to exceed three months.

George D. Squires and E. J. Foulds, for Applicant.

James M. Oliver, for Protestants.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

The applicant, Southern Pacific Company, has maintained a station at Dutch Flat on its Central Pacific leased line for many years. In the immediate vicinity of this station there are a few buildings, including a hotel, a blacksmith shop and some Chinese houses. The main town of Dutch Flat is slightly less than a mile down in the gulch from the present station. Notwithstanding the fact that the station has been maintained at this point for many years, it is located upon land the title to which is in dispute. Suits to quiet title on behalf of

the Southern Pacific Company are now pending in the Superior Court of Placer County, having been filed in 1905, but never prosecuted until recently.

The facilities at Dutch Flat have heretofore consisted of a main single track and what is known as a house track, and were apparently adequate for the needs of the shipping and traveling public. About two years ago the Southern Pacific Company began double tracking that portion of its line above Colfax, and when it was decided to put in a second track at Dutch Flat it was found that the undisputed right of way of the Southern Pacific Company was not sufficiently wide to accommodate two double tracks, and the necessary house track, and claimants to the adjoining land upon which the station of the Southern Pacific is located refused to permit the putting in of side track facilities, and the Southern Pacific thereupon began using the house track reconstructed as one of its double track main lines and to put in a spur a little more than a mile west of the present location, and asks to have a temporary station established at that point, and that until the litigation is cleared up the old station at Dutch Flat may be abandoned.

I believe there is very small merit in the application. It conclusively appears to me that almost the entire population of this section will be greatly inconvenienced by a change, even though temporary. Approximately nine tenths of the traffic originates in the town proper or contiguous to the present station, and abandonment of this station would make it necessary for the patrons of the Southern Pacific Company to patronize the station at Gold Run, two miles distant.

Under the circumstances it seems impossible for the company temporarily to pick up and send out carload freight at the present Dutch Flat station, and necessity requires that temporarily at least it be permitted to use the spur track at the proposed new station for this purpose. But I do not believe that the public in this vicinity should be required to suffer because of conflict of claimants to land on the part of the Southern Pacific Company and other alleged owners, and I recommend that the application be denied except as to carload freight, and that a limit of three months be placed upon the use of the present spur facilities for Dutch Flat carload business.

I recommend the following order:

ORDER.

Southern Pacific Company having applied to this Commission for an order authorizing the temporary abandonment of its station facilities at Dutch Flat, and a hearing having been held and being fully apprised in the premises, the Commission hereby finds as a fact that public convenience and necessity would not be served, but that great

inconvenience would result to the patrons of the Southern Pacific Company if the application be granted, and basing its order on the foregoing finding of fact and on the further findings in the opinion hereto.

It is hereby ordered that the application be denied, but that car-load freight consigned to and from the station of Dutch Flat may be handled from the present temporary spur track for a time not to exceed three (3) months from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1913.

DECISION No. 1139.

W. T. LUCOT

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 439.

Decided December 18, 1913.

Complainant alleges unreasonable class and commodity rates on lines of Southern Pacific Company between various points in California to points north of Stockton to and including Sacramento, and branch lines.

Held, Defendant ordered to publish and file within twenty days a rate of \$2.30 per ton on crude oil from Bakersfield to Ione and Valley Springs. Complaint in all other respects dismissed.

F. Alleyne Orr, for Complainant.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

This is a complaint directed against all of the class rates in Southern Pacific Company's local freight tariff No. 711, C. R. C. No. 1515, and commodity rates on cement, fruit, flour, cereals and cereal products, grain, hay and straw, live stock, horses, mules and sheep, lime and plaster, lumber and its products, petroleum crude oil, fuel wood, explosives, beer and agricultural implements appearing in the various commodity tariffs of the Southern Pacific Company as applicable between any point mentioned in these tariffs and points north of

Stockton to Sacramento, including what is known as the Amador and Valley Spring branches of the Southern Pacific Company.

I imagine the complainant does not recognize the extent of the inquiry which he has set in motion by this complaint and the number of rates actually called in question. While we do not expect all complainants appearing before this Commission to be entirely prepared to present their cases because of the fact that much of the information necessary in an inquiry such as this is in the possession of the defendant, yet we should and do expect complaining parties at least to show some real ground of complaint against the rates called in question, and do not expect them to take a pot shot at thousands of rates when their complaint is really only directed against comparatively few. We are willing at all times, when shippers have a grievance, to render all assistance in our power to relieve oppressive conditions, but I strongly object to complaints of this kind being filed unless the attorney representing complainants limits the inquiry as carefully as may be to those matters concerning which his clients complain.

The complainant in this case, as I have said, attacks a great many commodity rates and all of the class rates to such points as Lodi, Acampo, Galt, Elk Grove, Florin, Brighton, Sacramento, Ione, Lockeford, Clements and Valley Springs, as well as many of the less important non-agency stations located between the points mentioned.

At the hearing nine exhibits were introduced, seven of which dealt with the class rates from San Francisco, Sacramento and Stockton to Ione and Valley Springs. One exhibit dealt with the rates on ore from Ione to Selby and one dealt with rates on petroleum and its products from Bakersfield to Ione and Valley Springs. The rates now effective between Stockton and Ione are compared with the rates ordered in by the Commission in the so-called San Joaquin Valley case between Stockton and Montpelier, a distance approximately the same as from Stockton to Ione, and the complainant asks that the rate to Montpelier be applied to Ione, it being on a scale of 18 cents per hundred first-class as against a first-class rate of 23 cents Stockton to Ione. The rate from Stockton to Montpelier is in accordance with the scale prescribed by the Commission for main line San Joaquin Valley hauls. Notwithstanding the fact that Montpelier is on what is known as the Oakdale Branch, the Commission did not consider this line a branch line and as such entitled to any allowance in rates over main line rates, for the reason that the Oakdale branch left the main line at Stockton and ties in again to the main line at Merced, thus forming a possible through line in event of the blockade of the San Joaquin Valley east side main line.

The Commission also considered the traffic conditions of the Oakdale Branch and, as in the case of some other branches in the San Joaquin

Valley, decided that the business and operating conditions of such branches warranted the application of main line rates. Other branches more nearly comparable to the Amador branch from Galt to Ione were allowed rates in excess of the main line rates. I do not believe the conditions either of operation as regards the efficiency of train crews or the traffic of the Amador branch alone warrant the conclusion that main line rates prescribed in the San Joaquin Valley should be made applicable on the Amador branch.

The present class rates from Stockton to Ione are:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 23 | 20 | 18 | 15 | 14 | 14 | 13 | 12 | 11 | 11 |

and if we adhere to the San Joaquin Valley branch line scale, the rates from Stockton to Ione would be as follows:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|---|---|---|
| 25 | 21 | 19 | 16 | 15 | 15 | 10 | 8 | 7 | 6 |

Thus it will be seen that while Classes B, C, D and E would show material reductions, Classes 1, 2, 3, 4, 5 and A would be increased.

For some unknown reason the complainant does not ask that rates from Stockton to Valley Springs be constructed on the basis of the San Joaquin Valley main line rates, as is the case from Stockton to Ione, but presents an exhibit asking that the class rates be based on the existing first-class rate of 22 cents per hundred pounds between Stockton and Valley Springs, applying to such first-class rate the spread of rates prescribed in the case of Stockton to Montpelier.

The present rates from Stockton to Valley Springs are:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 22 | 19 | 18 | 16 | 13 | 13 | 13 | 13 | 11 | 11 |

The complainant asks rates of:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|---|---|---|
| 22 | 19 | 17 | 15 | 13 | 13 | 10 | 7 | 6 | 6 |

According to the San Joaquin Valley branch line scale the rates from Stockton to Valley Springs should be:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|---|---|---|---|
| 21 | 18 | 16 | 14 | 13 | 13 | 8 | 7 | 6 | 5 |

And here we have a most peculiar situation in which the complainant asks that Ione be placed on a lower scale of rates than the regular San Joaquin Valley branch line scale while to Valley Springs he is willing to accept not only a higher basis than the San Joaquin Valley main line but even higher than the San Joaquin Valley branch line rates.

The present rates from Sacramento to Ione are:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 24 | 21 | 19 | 16 | 15 | 15 | 14 | 13 | 12 | 12 |

Here again the complainant presents an exhibit in which he is willing to accept higher rates than provided in the San Joaquin Valley main line rates and if his contention holds good that he should have the Stockton to Montpelier rates applied Stockton to Ione we know of no reason why it should not also hold good as between Sacramento and Ione, but for the same reasons that I have mentioned why the San Joaquin Valley main line scale should not apply from Stockton holds with equal force from Sacramento, and computed on the basis of the San Joaquin Valley branch line rates, the rates from Sacramento to Ione would be:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|---|---|---|
| 25 | 21 | 19 | 16 | 15 | 15 | 10 | 8 | 7 | 6 |

The present rates from Sacramento to Valley Springs are:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 25 | 23 | 20 | 18 | 15 | 15 | 15 | 15 | 13 | 13 |

The complainant suggests the following rates:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|---|---|---|
| 25 | 22 | 20 | 17 | 15 | 15 | 11 | 8 | 7 | 7 |

Again, I will call attention to the fact that in his exhibit complainant is willing to accept a higher basis of rates for the Valley Springs branch than for the Amador branch, and on Class E even one cent higher than the San Joaquin Valley branch line scale, which rates would be as follows:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|---|---|---|
| 28 | 24 | 21 | 18 | 17 | 17 | 11 | 9 | 8 | 6 |

The complainant also presents an exhibit concerning class rates between San Francisco and Valley Springs, the present rates being:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 25 | 23 | 20 | 19 | 16 | 16 | 16 | 16 | 14 | 14 |

If we apply the same basis of rates as would obtain from San Francisco to an equidistant branch line point in the San Joaquin Valley, the rates would be:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 31 | 27 | 24 | 21 | 19 | 19 | 13 | 12 | 11 | 10 |

The present rates from San Francisco to Ione are:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 28 | 25 | 22 | 19 | 17 | 17 | 16 | 15 | 14 | 14 |

On the basis of the San Francisco to an equidistant San Joaquin Valley branch line point the rates, according to the San Joaquin Valley scale, would be:

| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
|----|----|----|----|----|----|----|----|----|----|
| 38 | 33 | 29 | 25 | 23 | 23 | 16 | 14 | 13 | 11 |

It must be apparent that if the complainant is going to rely on the San Joaquin Valley scale of rates the result will hardly be as favorable

as he anticipates. However, the Southern Pacific Company has filed with the Commission an application for a complete rate adjustment from San Francisco to points north of Stockton, including Amador and Valley Springs branches, and, pending the disposition of this application, we will make no further comment on these rates other than to say that the complainant has failed to establish unreasonableness of existing class rates.

It might be well to note, in passing, that the only witnesses called by attorney for complainant to testify were from Jackson and Sutter Creek, Amador County, and, notwithstanding this, complainant's attorney presumes to attack as unreasonable the rates to many important points north of Stockton without the apparent consent or desire of shippers of these places and I must, therefore, dismiss from any consideration whatsoever rates to any points other than those covered by exhibits or complained of specifically by witnesses who testified. Obviously, attorney for complainant represented only shippers of Sutter Creek and Jackson, Amador County, and was not authorized, so far as we are informed, by the merchants of any of the numerous places named in the complaint to represent them in an attack upon the rates which he calls into question.

I do not wish to be understood as conceding that the rates to Ione and Valley Springs are unreasonable, or otherwise, and I have set out in detail the effect of an application of the San Joaquin Valley rate basis to the territory in question simply to show that the rates were attacked without a full knowledge of all the conditions surrounding the establishment of the San Joaquin Valley rates and the probable effect of such application to the territory involved.

The only commodity complained of in the pleadings and mentioned in an exhibit was petroleum and its products from Bakersfield to Ione and Valley Springs. The defendant maintains a rate of \$2.30 per ton on petroleum from Bakersfield to Stockton which it blankets to Marysville. Under the principle of allowing equated mileage for branch line hauls there seems to be no good reason why if this principle is sound the rate of \$2.30 per ton on crude oil should not apply from Bakersfield to both Valley Springs and Ione if this rate is reasonable to Marysville, which, having been voluntarily established, we have a right to assume defendant so considers it.

The complainant presents an exhibit questioning rate on ore and concentrates from Ione to Selby, but as the pleadings raise no issue of the unreasonableness of this rate we are not in a position to decide as to its reasonableness, but I will recommend that the Southern Pacific Company publish a reasonable ore rate based on ores of different valuation in a like manner as rates are published in Nevada.

After a careful review of all of the evidence given in this case I find as a fact that the complainant has not sustained his allegations that class rates or any commodity rates complained of are excessive except the commodity rate on crude oil from Bakersfield to Ione and Valley Springs.

I find as a fact that the rate on crude oil from Bakersfield to Ione and Valley Springs is excessive and unreasonable and find that a reasonable rate for the transportation of this commodity between these points to be \$2.30 per ton of 2,000 pounds.

While there is no doubt but that a different spread should be established between the various class rates which would probably result in reductions in the lower carload class rates the evidence submitted does not justify a finding in this regard, and having in view the fact that the defendant, as well as other lines of railroad and steamer lines, have applied for a complete readjustment of all class and many commodity rates in the section comprehended in this complaint, at the hearing of which applications the reasonableness of the present rates will undoubtedly be determined, I shall make no findings with reference to present class rates.

I recommend the following order:

ORDER.

W. T. Lucot having filed with this Commission a complaint alleging that the various class and commodity rates of the Southern Pacific Company applicable between various points in California and points north of Stockton to and including Sacramento and branch lines, a regular hearing having been had and the Commission being fully apprised in the premises,

It is hereby ordered that the Southern Pacific Company publish and file with this Commission on or before twenty days from the service of this order tariff setting out rate of \$2.30 per ton of 2,000 pounds on crude oil, from Bakersfield to Ione and Valley Springs; and,

It is further ordered that the complaint so far as it relates to other commodity and class rates be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1913.

DECISION No. 1140.

KLEIN-SIMPSON FRUIT COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY.

Case No. 449.

Decided December 18, 1913.

REPORT OF THE COMMISSION.

ORDER DISMISSING COMPLAINT.

Klein-Simpson Fruit Company having, on December 15, 1913, made written request to this Commission that the complaint in the above-entitled proceeding be dismissed,

It is hereby ordered that the complaint in the above-entitled proceeding be, and the same is, hereby dismissed without prejudice.

Dated at San Francisco, California, this 18th day of December, 1913.

DECISION No. 1141.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN
POWER COMPANY FOR A CERTIFICATE THAT PUBLIC
CONVENIENCE AND NECESSITY REQUIRE THE EXER-
CISE OF A FRANCHISE FOR THE CONSTRUCTION, MAIN-
TENANCE AND OPERATION OF ELECTRICAL LINES AND
WORKS IN THE CITY OF OAKLAND, CALIFORNIA.

Application No. 848.

Decided December 18, 1913.

REPORT OF THE COMMISSION.

Great Western Power Company having applied to this Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to applicant by the city of Oakland in Ordinance No. 477, N. S., adopted June 9, 1913, by which ordinance applicant is given the right to erect, construct, operate and maintain, for a period of thirty-five years, an electrical distribution system in the city of Oakland, county of Alameda, State of California,

and it appearing to the Commission that this is not a case in which a public hearing is necessary, but that considering all the circumstances surrounding the case the application may be granted *ex parte*,

It is hereby declared that public convenience and necessity require the exercise by Great Western Power Company of the rights and privileges granted to said company by the city of Oakland in Ordinance No. 477, N. S., adopted June 9, 1913.

Dated at San Francisco, California, this 18th day of December, 1913.

DECISION No. 1142.

W. T. LUCOT

vs.

AMADOR CENTRAL RAILROAD COMPANY.

Case No. 440.

Decided December 18, 1913.

Complaint alleging unreasonable and excessive class and commodity rates on the lines of the Amador Central Railroad Company;

Held, complaint dismissed.

F. Alleyne Orr, for Complainant.

Haven & Athearn, for Defendant.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

The complainant in this case attacks as excessive and unreasonable all of the class and commodity rates of the Amador Central Railroad Company.

To substantiate allegations that the rates of this line are excessive attorney for complainant introduced four exhibits and the testimony of several witnesses of Amador County, who testified that they believed the rates of the Amador Central Railroad Company were too high.

According to contention of complainant, as outlined in Exhibit No. 4, the Commission is asked to prescribe a scale of class rates which would be so low as to in each case cut under the commodity rates and, under the rules of the Commission that commodity rates can in no case exceed the class rates, practically all of the important commodity rates would be eliminated.

The only exhibits with reference to commodity rates of the defendant introduced covered ore and flour, and in each case complainant com-

compares the rates of the Amador Central Railroad Company with rates for similar distances on the Southern Pacific Company.

The Amador Central Railroad Company is a corporation which came into existence in 1909, and took over what was known as the Ione and Eastern Railroad, the property of that company having been thrown into receivership because of inability to meet operating expenses and fixed charges.

The statement attached indicates that for the five years 1909 to 1913, inclusive, since the reorganization of this property and it commenced operating under the name of the Amador Central Railroad Company, bond interest amounting to \$67,500.00 and dividends amounting to \$29,000.00 have been paid—a total return on the investment in this property for five years of \$96,500.00 or an average of \$19,300.00 per annum. This represents an annual return of 5 per cent on \$386,000.00. A dividend paid in 1911 and 1912 on the stock of the corporation appears to have been made out of a surplus accumulated prior to that date. The surplus on hand, therefore, is only that which accrued during the fiscal year ending June 13, 1913, and hardly represents an amount large enough to purchase a locomotive, which I understand the road badly needs at this time.

The changes proposed by the complainant would involve a reduction in class rates which would, through the operation of the Commission's rules, have the direct effect of reducing many commodity rates, and from a check of the various commodities handled by this road, based on one year's business, would result in reductions of revenue amounting approximately to \$15,000.00 per annum. The defendant railroad is not in a position to stand a reduction of such an amount as this.

The Commission found as a result of its investigations that the reproduction value of the Amador Central Railroad Company was \$389,843.23, and at the present value, with due allowance for depreciation, is \$333,920.94. Based on the present value of the property bond and stockholders have received less than six per cent interest per annum thereon for an average of the last five years and the surplus does not appear to be a sum in excess of what is needed for renewal of facilities worn out in the service.

The Amador Central Railroad Company is approximately twelve miles in length, running from Ione to Martell. On a small railroad property of this size it is manifestly improper that a comparison of its rates should be made with that of a larger line like the Southern Pacific Company, operating as it does many thousands of miles. A line the size of the Southern Pacific Company, with its enormous tonnage of all kinds, could handle the comparatively small tonnage of the Amador Central Railroad Company for practically nothing and the result would have no appreciable effect on its revenue.

It is a serious proposition, however, to curtail the revenue of a small line like the Amador Central Railroad Company when it is plainly apparent that the railroad has had a rather stormy career. Operating as it does in a mountainous district, where the wagon roads are not in the best condition for travel in winter time, it is highly important to citizens of the district served by this road that it be kept in operation continuously, and that every encouragement be given the owners to continue such operation.

If we were to adopt the suggestions of the complainant in this case the result would be that the revenue of this line would be so impaired that it would be forced to curtail its service, and eventually permit the property to fall into a dilapidated condition. I feel that it is to the best interest of the public generally served by this road, and in this I am borne out by some of the heaviest shippers, that no impediments be placed in the way of its continued operation, but on the contrary every encouragement should be given to stimulate the improvement of the roadbed, motive power and equipment, which will not be possible should the revenue of the road in any way be impaired.

It is apparent from the consideration of all the facts that the rates of the Amador Central Railroad Company are not excessive. The class rates do not appear to be spread on a proper basis and should be revised in the following manner, which will have very little effect on its revenue:

| | | | | | | | | | |
|----|----|----|----|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | A | B | C | D | E |
| 13 | 12 | 11 | 10 | 9 | 9 | 8 | 7 | 6 | 5 |

Complainant made a particular point of the fact that at one time the Amador Central Railroad Company made a minimum charge of 15 cents for the transportation of any single shipment of freight which it subsequently raised to 25 cents. This minimum charge is in effect on all railroads in California and I see no merit in the contention of complainant that it should be reduced.

The complaint should be dismissed and I recommend the following order:

ORDER.

W. T. Lucot having filed with this Commission a complaint alleging that all class and commodity rates of the Amador Central Railroad Company are excessive and unreasonable, and a regular hearing having been held and the Commission being fully apprised in the premises, and basing its order on the findings of fact set forth in the opinion which precedes this order,

It is hereby ordered that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1913.

Earnings and Expenditures of Amador Central Railroad Company.

| Fiscal year ending June— | Earnings | | Gross earnings | Operating expenses | Operating income | Bond interest | Other interest | Taxes |
|--------------------------|--------------|--------------------------|----------------|--------------------------|------------------|---------------|----------------|-------------|
| | Passenger | Freight | | | | | | |
| 1909 | \$7,764 57 | \$19,615 09 *1,003 08 | \$31,462 74 | \$16,538 72 43,204 76 | \$11,719 26 | \$7,500 00 | \$570 69 | \$813 81 |
| 1910 | 26,820 34 | 59,061 50 *224 86 | 86,129 70 | 48,032 37 46,551 84 | 38,878 54 | 15,000 00 | 455 43 | 1,743 28 |
| 1911 | 26,571 25 | 69,813 83 *503 17 | 96,888 25 | 47,323 75 49,369 66 | 42,049 66 | 15,000 00 | | 3,352 72 |
| 1912 | 27,981 16 | 71,651 54 *2021 08 | 104,853 78 | 49,369 66 47,410 93 | 48,013 19 | 15,000 00 | | 4,039 10 |
| 1913 | 18,234 26 | 71,265 86 *3,066 17 | 92,546 29 | 43,525 13 | 49,041 16 | 15,000 00 | | 4,500 00 |
| Totals | \$107,371 58 | \$304,529 18 | \$411,900 76 | \$224,608 95 | \$187,291 81 | \$67,500 00 | \$1,026 12 | \$11,178 91 |

*Other sources.

†Outside operations.

Earnings and Expenditures of Amador Central Railroad Company—Continued.

| Fiscal year ending June— | Permanent improvements | Other deductions | Total deductions | Net income | Deficit | Dividends | Additions and betterments | Surplus |
|--------------------------|------------------------|------------------|------------------|-------------|---------|-------------|---------------------------|-------------|
| | | | | | | | | |
| 1909 | | \$460 11 | \$9,374 61 | \$2,314 65 | | | \$543 72 | \$1,800 93 |
| 1910 | | 1,613 83 | 18,812 54 | 17,066 00 | | | 6,255 61 | 10,810 39 |
| 1911 | | 1,693 32 | 20,016 04 | 22,593 62 | | \$1,000 00 | 1,826 02 | 16,767 60 |
| 1912 | | 2,974 67 | 22,013 77 | 26,029 42 | | 25,000 00 | 2,774 08 | 2,745 26 |
| 1913 | | 3,322 06 | 22,822 06 | 26,219 10 | | | 11,133 28 | 15,065 82 |
| Totals | | \$10,033 99 | \$63,039 02 | \$94,252 79 | | \$29,000 00 | \$23,533 31 | \$41,719 48 |

DECISION No. 1143.

IN THE MATTER OF THE APPLICATION OF SOUTHERN
COUNTIES GAS COMPANY OF CALIFORNIA FOR AU-
THORITY TO ISSUE BONDS.

Application No. 668.

Decided December 18, 1913.

Applicant authorized to issue additional bonds of the face value of \$9,000.00, proceeds to be used for betterments to plant.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner*.

Whereas on the 13th day of August, 1913, this Commission, after a hearing duly had upon the application of the Southern Counties Gas Company of California for authority to issue bonds, granted said Southern Counties Gas Company of California permission to issue its first mortgage 6 per cent thirty-year bonds under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, as trustee, dated April 1, 1911, to the amount of \$75,000.00, such bonds to be issued at different times in such amounts as applicant had justified itself in asking for under the terms of the said mortgage and deed of trust, the conditions of which are that applicant may issue bonds to 75 per cent of the cost of additions and betterments, but can only issue bonds to said amount of 75 per cent of additions and betterments when the net earnings of the company are one and one half times the interest charges on the outstanding bonds, plus one and one half times the interest charges on the bonds proposed to be issued; and

Whereas at the time said application was granted applicant was found to be in position, under the terms of its mortgage, to receive an authorization for the issue of \$7,000.00 in bonds, which authorization was granted to applicant; and

Whereas on September 3, 1913, applicant presented evidence showing that it had complied with the terms of the mortgage and was entitled to the further issue of bonds to the extent of \$6,500.00 face value, and the Commission having made an order authorizing the issuance of said bonds; and

Whereas applicant now presents evidence showing that its earnings are such as to entitle it to a further issue of bonds of the face value of \$9,000.00,

It is hereby ordered that Southern Counties Gas Company of California be and hereby is authorized to issue its thirty-year 6 per cent

first mortgage bonds of the face value of \$9,000.00, upon the condition set forth in this Commission's order made in the above entitled proceeding on August 13, 1913, which conditions are made a part of this order.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1913.

DECISION No. 1144.

IN THE MATTER OF THE APPLICATION OF THE SPRING VALLEY WATER COMPANY FOR AUTHORITY TO ISSUE ONE MILLION DOLLARS OF TWO-YEAR COLLATERAL TRUST NOTES AND TO EXECUTE A COLLATERAL TRUST AGREEMENT.

Application No. 830.

Decided December 18, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, on November 27, 1913, issued an order in the above entitled matter authorizing Spring Valley Water Company to issue \$1,000,000.00 of two-year collateral trust notes, and to pledge as security therefor \$1,334,000 of its 4 per cent general mortgage bonds, and to execute a trust agreement with Union Trust Company providing for the issue of said notes; and it now appearing that the bonds which the applicant herein proposes to pledge as security for said \$1,000,000.00 of two-year collateral trust notes are its 4 per cent general mortgage bonds numbered 5130 to 6464, both numbers inclusive,

It is hereby ordered that Spring Valley Water Company be given authority to pledge its said 4 per cent general mortgage bonds numbered 5130 to 6464, both numbers inclusive, as collateral security for the \$1,000,000.00 of two-year collateral trust notes under the authority granted by this Commission in its order of November 27, 1913.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1913.

DECISION No. 1145.

IN THE MATTER OF THE CHARGES OF PUBLIC UTILITY
GAS CORPORATIONS FOR NATURAL GAS DELIVERED
AT WHOLESALE AT POINTS IN LOS ANGELES COUNTY
OUTSIDE THE LIMITS OF INCORPORATED CITIES AND
TOWNS.

Case No. 464.

Decided December 20, 1913.

Held, That the present rate of 18 cents per thousand cubic feet for natural gas delivered at the West Glendale terminus of the Midway Gas Company's line is excessive and unreasonable; Southern California Gas Company ordered to publish and file within thirty days a rate of 14 cents per thousand feet.

O'Melveny, Stevens & Millikin, Henry J. Stevens, and Sayre Macneil, for Midway Gas Company, Southern California Gas Company and Pacific Light and Power Corporation.

William A. Cheney, for Los Angeles Gas and Electric Corporation.

Trippet, Chapman & Biby, for Economic Gas Company.

H. H. Trowbridge and Harry J. Bauer, for Southern California Edison Company and Long Beach Consolidated Gas Company.

F. S. Wade, for Southern Counties Gas Company.

R. P. Matteson, for Western Fuel Gas and Power Company.

H. C. Booth, for Southern Pacific Railroad Company, Kern Trading and Oil Company and Associated Oil Company.

John Martin, *in propria persona*.

William G. Kerckhoff, *in propria persona*.

Albert Lee Stephens, City Attorney, and *Howard Robertson*, Assistant City Attorney, for City of Los Angeles.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners*.

This is an investigation on the Railroad Commission's own initiative to establish the rate to be charged by public utility gas corporations for natural gas delivered at wholesale at points in Los Angeles County, outside of the limits of incorporated cities and towns. The proceeding was instituted as the result of a resolution adopted by the city council of Los Angeles requesting the Commission to establish the rates to be charged by producing companies for natural gas delivered at wholesale to distributing companies at the city limits of Los Angeles. As natural gas was being sold at wholesale for delivery in other cities of Los

Angeles County, the Commission instituted its inquiry on lines broad enough to cover the whole field of wholesale delivery in Los Angeles County outside of the limits of incorporated cities and towns. On September 17, 1913, the Commission made its order directing such corporations and persons as were thought to have an interest in the matter to appear before the Commission in Los Angeles on October 23, 1913, to show cause why the Commission should not make its order establishing such rates. The order to show cause was directed to the following corporations and persons: Midway Gas Company, Southern California Gas Company, Los Angeles Gas and Electric Corporation, Pacific Light and Power Corporation, Economic Gas Company, Southern California Edison Company, Southern Counties Gas Company, Western Fuel, Gas and Power Company, Honolulu Consolidated Oil Company, Southern Pacific Railroad Company, Kern Trading and Oil Company, Associated Oil Company, William G. Kerekhoff, and John Martin.

The hearing was held in Los Angeles on October 23, 24 and 25, 1913, and the proceeding was submitted on the latter day. The Commission has made an exhaustive investigation into the subject and has tried to secure and analyze all available data bearing on the many different angles of the question. In this work, the Commission has been materially assisted by a number of its experts, particularly F. Emerson Hoar, assistant rate expert and electrical engineer, Arthur R. Kelley, assistant engineer, and W. C. Fankhauser of the department of statistics and accounts.

We shall consider the matter under the following heads:

1. History of project.
2. Production, transmission and delivery.
3. Character and uses of natural gas.
4. Extent of field.
5. Period of available supply.
6. Analysis of contracts.
7. Investment.
8. Operating expenses.
9. Depreciation.
10. Royalties.
11. Rate of return.
12. Rate.

1. History of Project.

Natural gas in this State seems to have been first utilized for commercial purposes in Stockton in or about 1890. The Stockton wells are still producing. Natural gas was discovered in the San Joaquin oil fields in or about 1905. The first Standard Oil gas well drilled in the Buena Vista Hills field was completed October 11, 1909. The first gas well of the Honolulu Consolidated Oil Company, hereinafter referred

to as the Honolulu Company, in the same field, came in on April 30, 1910. Until 1911, such gas as was utilized in the Buena Vista Hills field was used solely for consumption in the oil fields. On April 19, 1911, the California Natural Gas Company, controlled by the Standard Oil Company, entered into a contract with the San Joaquin Light and Power Corporation providing for the delivery to the latter company of natural gas for the supply of Bakersfield and vicinity. In this territory, natural gas has entirely supplanted artificial gas.

In 1910, John Martin and associates became interested in natural gas in the Buena Vista Hills field. They conceived the idea of building a transmission main a distance of some 111.1 miles to the city of Los Angeles and developing sufficient gas in the oil fields to supply through such main the needs of Los Angeles County, and possibly other portions of southern California. These men accordingly made arrangements both for the production in the oil fields and for the disposition in Los Angeles County of such natural gas. On November 2, 1911, John Martin entered into a contract with the Honolulu Consolidated Oil Company for the supply by the company of natural gas in a minimum amount of 15,000,000 cubic feet per day during the first year after the completion of the transmission main to Los Angeles County and for larger amounts during subsequent years, as will appear in greater detail when we hereinafter analyze the contracts which are relevant in this inquiry.

Thereafter, on November 18, 1911, the Midway Gas Company was incorporated for the purpose of constructing the necessary transmission main or mains. The company has an authorized capital stock of \$3,000,000.00, of which amount \$2,500.00 was issued for cash to the incorporators and \$2,997,500.00 to John Martin in exchange for his two contracts with the Honolulu Company. Martin and his associates thereafter used a portion of the stock to help sell the bonds, but they now still retain a portion of the stock. On December 5, 1911, before the construction of the transmission main was started, the Midway Gas Company leased such main, when completed, to the Southern California Gas Company for a period of twenty years at a rental of 5 cents per each 1,000 cubic feet of gas delivered into the main. The Midway Gas Company thereafter built a transmission main from its Taft terminal in the Buena Vista Hills field to West Glendale, near Los Angeles, at a cost to October 17, 1913, of \$1,519,963.03. This money was secured partly from the sale of bonds and partly from promissory notes. The company has an authorized bond issue of \$3,000,000.00 six per cent bonds, secured by deed of trust to Mercantile Trust Company of San Francisco. Of this amount bonds of the face value of \$1,500,000.00 were sold at 90 per cent of face value plus accrued interest. The remaining funds represent a portion of the proceeds of promissory notes amounting to \$210,000.00. An assessment has recently been levied on

the stock to pay these notes as well as \$60,000.00 of principal of the bonds. Apart from this assessment, no cash was paid on any of the stock except the original \$2,500.00. The work of construction on the pipe line was started in March or April, 1912, and was completed in September, 1912. Service through the pipe line started on April 28, 1913.

In the mean time, various contracts were entered into to secure control of additional gas lands, as will hereinafter appear. The Southern California Gas Company also guaranteed the payment of the bonds of the Midway Gas Company and took over all its contracts and entered into contracts with local gas companies in Los Angeles County for the sale of natural gas to them for distribution, as will hereinafter appear. Part of the gas so delivered to the local companies has been used as fuel in their artificial gas generators and under their boilers and part has been distributed for domestic use. Natural gas without being mixed has been supplied for domestic consumption in Redondo and to a few customers in Athens-on-the-Hill and Gardena. The city of Los Angeles, with the exceptions named, and other neighboring cities, including Long Beach, San Pedro, Compton, Huntington Park, Vernon, Sawtelle, Santa Monica, Ocean Park and Venice, are being supplied with a mixed gas, consisting on the average at the time of the hearing of 45 per cent of natural gas and 55 per cent of artificial gas.

2. Production, Transmission and Delivery.

The natural gas is being obtained from what is known as the Buena Vista Hills district in Kern County, located approximately forty miles west of the city of Bakersfield. The extent of this field will hereinafter be considered in greater detail. There are now completed and available for the Southern California Gas Company, which is the seller of gas to the distributing companies in Los Angeles County, eight gas wells as follows:

HONOLULU COMPANY.

- Well No. 5, section 6, township 32 south, range 24 east, M. D. B. and M.
- Well No. 5, section 8, township 32 south, range 24 east, M. D. B. and M.
- Well No. 6, section 8, township 32 south, range 24 east, M. D. B. and M.

ASSOCIATED OIL COMPANY.

(Bought by Southern California Gas Company.)

- Well No. 2, section 20, township 31 south, range 23 east, M. D. B. and M.
- Well No. 1, section 20, township 31 south, range 23 east, M. D. B. and M.
- Well No. 1, section 26, township 31 south, range 23 east, M. D. B. and M.

NORTHERN EXPLORATION COMPANY.

- Well No. 2, section 26, township 31 south, range 23 east, M. D. B. and M.
- Well No. 3, section 26, township 31 south, range 23 east, M. D. B. and M.

The gas now needed for transmission is nearly all supplied by the Honolulu Company's wells, and the remaining five wells are capped in and principally held in reserve, though the Northern Exploration Com-

pany's wells may be drawn upon at times to supply possible deficits from the Honolulu Company's wells.

The gas needed for delivery is transmitted from the wells through so-called gathering lines to the northern end of the transmission main, known as the Taft Terminal. The gathering lines from the Honolulu Company's wells were built and are owned by that company. The other gathering lines were built and are owned by the Southern California Gas Company. Upon delivery at the Taft Terminal, the gas is then transmitted a distance of 111.1 miles through the main to its southerly terminus in West Glendale, a few miles from the limits of the city of Los Angeles.

The transmission main consists of 12 $\frac{3}{4}$ -inch outside diameter 31-pound lap welded steel pipe, connected with Bresser couplings. In the first ten miles of the main from the Taft end asbestos gaskets were used in making the connections, while in the remaining portions of the line the gaskets are of rubber. The main is designed to carry a maximum of 26,000,000 cubic feet of gas per day at an initial pressure of 450 pounds per square inch and a terminal pressure of 50 pounds per square inch. The officials of the Southern California Gas Company expect that because of lack of uniform demand at all times it will actually carry in the neighborhood of 18,000,000 cubic feet per day. This company is now constructing a compressor plant along the main near the Taft Terminal for the purpose of compressing the gas so as to go into the main at a pressure of 450 pounds. We shall hereinafter give further consideration to this plant.

At the West Glendale terminus of the transmission main, the gas is divided, part going into a 16-inch main which leads to the plant of the Los Angeles Gas and Electric Corporation in Los Angeles and part into a main which leads to the plant of the Southern California Gas Company in the same city. From this plant, the following mains have been constructed:

1. An eight-inch main, 2.256 miles in length, to serve the Economic Gas Company in Los Angeles.
2. A twelve-inch main, 19.609 miles in length, to serve the Western Gas and Fuel Company for distribution in Redondo, the Pacific Light and Power Corporation for fuel in the same place, and an eight-inch main, 4.324 miles in length, branching therefrom to serve the town of Torrance.
3. An eight-inch main, 17.926 miles in length, to serve the Long Beach Consolidated Gas Company for distribution in Long Beach and also the towns of Vernon, Huntington Park and Compton. From this main gas is being distributed or will be distributed to serve San Pedro and Wilmington as well.
4. A main partly eight inches and partly six inches in diameter, 14.75 miles in length, to serve the Southern California Edison Company for distribution in Sawtelle, Santa Monica, Ocean Park and Venice.

All the foregoing mains were constructed by the Southern California Gas Company. The gas so delivered through these mains is then distributed by the various local companies.

3. Character and Uses of Natural Gas.

The following table shows the results of ten quantitative analyses of natural gas from the Buena Vista Hills field:

TABLE 1. REFERENCE NUMBERS.

| Constituents ----- | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | Avg. |
|--|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|
| Liquifiable hydrocarbon (benzene, etc.) ----- | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.3 | 0 | 0 | .03 |
| Heavy hydrocarbon (illuminants C_5H_{12}) ----- | 0.3 | 0 | 0 | 0 | 0 | 0 | 0 | 0.5 | 0 | 0 | .08 |
| Methane (CH_4) ----- | 81.8 | 92.6 | 92.8 | 97.4 | 99.1 | 97.4 | 91.3 | 91.2 | 92.0 | 91.3 | 92.00 |
| Ethane (C_2H_6) ----- | 11.6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1.16 |
| Carbon monoxide (CO) ----- | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | .00 |
| Carbon dioxide (CO_2) ----- | 5.4 | 7 | 0.7 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 5.8 | 7.2 | 2.73 |
| Oxygen (O) ----- | 0 | 0.4 | 0.8 | 0.1 | 0.1 | 0.1 | 2.2 | 0 | 0 | 0 | .37 |
| Hydrogen (H) ----- | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | .00 |
| Nitrogen (N) ----- | 0.9 | 0 | 5.7 | 1.7 | 0 | 1.7 | 5.7 | 0 | 2.2 | 1.5 | 1.94 |
| Totals ----- | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.00 |
| British thermal units per cubic foot ----- | 1028 | 994 | 996 | 1045 | 1033 | 1045 | 980 | 1001 | | | *1024 |

*Average of eight tests.

Test No. 1—Los Angeles Gas and Electric Corporation. Typical analysis, submitted October 18, 1913.

Test No. 2—Economic Gas Company. Analysis of sample taken at Midway, May 24, 1911 (Honolulu 14-2).

Test No. 3—Economic Gas Company. Analysis of sample taken at Bakersfield, June 19, 1911 (Standard 22-2); made at Pacific Gas and Electric Company's laboratory in San Francisco.

Test No. 4—Economic Gas Company. Same as Test No. 3.

Test No. 5—Economic Gas Company. Analysis of sample taken at Bakersfield, August 26, 1911 (Standard 22-2); made at Pacific Gas and Electric Company's laboratory in San Francisco.

Test No. 6—Economic Gas Company. Same as Test No. 5. Sample taken August 27, 1911.

Test No. 7—Economic Gas Company. Same as Test No. 5. Sample taken August 29, 1911.

Test No. 8—Economic Gas Company. Analysis of sample taken at Glendale Terminal Midway line on September 20, 1913; made at Los Angeles by Mr. S. C. Lowe, superintendent Economic Gas Company.

Test No. 9—Southern California Gas Company. Analysis by University of Southern California, October 31, 1913, of sample taken from Midway line at Glendale on October 23, 1913.

Test No. 10—Southern California Gas Company. Same as Test No. 9 of sample of gas taken at Taft on October 25, 1913.

It will be noted that the average heating value in British thermal units per cubic foot of this natural gas is 1,024. The average British thermal units of artificial gas manufactured by the Southern Gas Company during the years 1909, 1910, 1911 and 1912 was as follows:

| Year. | British thermal units. |
|---------------|------------------------|
| 1909 ----- | 604 |
| 1910 ----- | 603 |
| 1911 ----- | 606 |
| 1912 ----- | 609 |
| Average ----- | 605.5 |

As the British thermal unit is the measure of heating value, it appears from the foregoing tables that the heating value of artificial gas is only about 60 per cent of that of the natural gas from the Buena Vista Hills field. While the value of natural gas for lighting purposes is but slight if used in an open flame, this gas has about the same superiority over artificial gas for lighting as for heating if burned in an incandescent gas mantle burner. In other words, for both heating and lighting purposes (if an incandescent gas mantle burner is used) the natural gas has an efficiency in the vicinity of $66\frac{2}{3}$ per cent greater than that of the artificial gas. It would seem to follow that when natural gas replaces artificial gas, the amount of gas consumed will materially decrease, at least at first. This has been the actual result since the "mixed" gas has been introduced in Los Angeles. The evidence, however, shows that with the more efficient natural gas, the uses for the gas expand, so that the former consumption of gas is gradually regained. In addition to its uses for lighting and domestic heating, natural gas is being used at the present time in place of oil in the gas generators and under the boilers of several gas companies in Los Angeles and it is largely used in the eastern sections of this country to replace coal as fuel for manufacturing purposes.

4. Extent of Field.

The location of the known gas field from which the Southern California Gas Company and the California Natural Gas Company obtain their supply is confined to a portion of the Buena Vista Hills, which extend in a northwesterly direction from a point immediately west of Buena Vista Lake in Kern County to section 37, township 31 south, range 23 east, M. D. B. and M.

With reference to the extent or area of the gas producing field, the evidence contains the following estimates:

J. G. White & Company (November 2, 1911). In a report prepared for *J. G. White & Company*, W. E. Barrett, its gas engineer, reaches the following conclusion with reference to the area of the gas field: "The present gas bearing territory is principally located in one township of about 36 square miles, which is only a very small portion of the possible area, as the Midway oil fields which are either in operation under development or held in reserve, cover a territory of some hundred square miles."

The minimum area estimated by Mr. Barrett was thus 23,040 acres. It appears that he did not include the so-called southern field, located in township 32 south, range 24 east.

Ford, Bacon & Davis (May 24, 1913). This report of an investigation made early in 1913 by Mr. W. L. McCloy, general superintendent of the Natural Gas Department of the Philadelphia Company (Pittsburg, Pennsylvania), and Mr. H. M. Bacon of Ford, Bacon & Davis,

contains the following estimate of area of the gas field: "We estimate that in the Buena Vista Hills an area of 7,300 acres will probably produce gas in quantities sufficient to warrant drilling. Of this area 5,900 acres are controlled by the Honolulu Consolidated Oil Company, Associated Oil Company and Kern Trading Company."

This area was derived by drawing a line around the outermost gas wells then producing and is consequently conservative. The report finds two fields, known as the northern and southern fields, separated by section 36, township 31 south, range 23 east and section 1, township 32 south, range 23 east. This estimate is apparently an estimate simply of proven territory.

E. T. Dumble (October 31, 1911). This estimate was prepared at the request of Mr. A. D'Heur, of the Kern Trading and Oil Company, and is shown on a map submitted by Mr. A. C. Balch at the hearing. The area shown on the map as gas bearing is as follows:

| | |
|--------------------------------------|--------------|
| Buena Vista Hills— | |
| Northern area, 17 square miles | 10,880 acres |
| Southern area, 13 square miles | 8,320 acres |
| Elk Hills, 2 square miles | 1,280 acres |
| <hr/> | |
| Total area | 20,480 acres |

This estimate is interesting in that it includes a part of the Elk Hills territory as probable gas producing land.

Associated Oil Company—Prior to October, 1911, Mr. Williams prepared a map for the Associated Oil Company, which map is in evidence in this case and shows an estimated gas area as follows:

| | |
|-------------------------|--------------|
| Buena Vista Hills | 19,200 acres |
| Elk Hills | 1,280 acres |
| <hr/> | |
| Total area | 20,480 acres |

H. H. McClintock—Mr. H. H. McClintock, the superintendent of the Northern Exploration Company, indicated on a map marked "Northern Exploration Company's Exhibit No. 5," what he considered to be the proven gas territory. He indicated two areas in the North District and three areas in the South District, having areas approximately as follows:

| | |
|------------------|-------------|
| North District— | |
| East area | 595 acres |
| West area | 160 acres |
| <hr/> | |
| | 755 acres |
| South District— | |
| East area | 67 acres |
| South area | 75 acres |
| West area | 320 acres |
| <hr/> | |
| | 462 acres |
| <hr/> | |
| | 1,217 acres |

Mr. McClintock drew lines closely around the existing gas wells and was apparently playing absolutely safe.

Lands Under Contract.—As indicating what area the promoters of the Midway Gas Company considered as possible gas producing territory, it will be interesting to refer to the lands under contract for natural gas development as follows:

| | | |
|---|---------------------|--------------------|
| Southern Pacific Railroad Company | } 14 sections ----- | 8,960 acres |
| Kern Trading and Oil Company | | |
| Associated Oil Company, 2 sections----- | | 1,280 acres |
| Honolulu Company, 7 sections----- | | 4,480 acres |
| | | <hr/> 14,720 acres |

The following table shows the various foregoing estimates concerning the gas bearing area:

| | |
|--|--------------|
| J. G. White & Co. (minimum)----- | 23,040 acres |
| Ford, Bacon & Davis----- | 7,300 acres |
| E. T. Dumble ----- | 20,480 acres |
| Associated Oil Company (Williams)----- | 20,480 acres |
| H. H. McClintock----- | 1,217 acres |
| Assumed from land contracts----- | 14,720 acres |

While it is unnecessary in this proceeding to determine the extent of the gas bearing territory, we have given the foregoing estimates to show the wide divergence of opinion on this point, and to illustrate the difficulty in ascertaining exact information as to the facts surrounding the production of natural gas.

5. Period of Available Supply.

The extent of the field is really only one element in the ultimate problem, which is the length of time during which the Southern California Gas Company may draw gas from this field. In order to answer this question accurately, it would be necessary to know both the available supply and the annual drain therefrom from waste and from utilization. Owing to the fact that the field is still in its infancy and that accurate data on these points has not been secured, it will be necessary in this case arbitrarily to fix a minimum period during which the Southern California Gas Company or its successors may draw gas from the field.

The men who conceived and financed the project testified that in their opinion this period will be from ten to fifteen years. John Martin testified that the Midway Gas Company was financed on an assumed period of ten years during which gas might be available for its proposed transmission main. Mr. Cyrus Pierce, who with an associate sold \$450,000.00 face value of the Midway Gas Company's bonds and who has taken a leading part in financing the project, testified that in selling to customers he stated that from the best information he could secure he had good reason to hope that the life of the field would be fifteen years. These bonds are ten-year bonds. Mr. A. C. Balch testified that he and his associates had invested some \$620,000.00 in the Midway Gas Com-

pany, and that it was estimated that the life of the field would not be to exceed twelve or fifteen years, and that the average amount of gas that would probably be fed through the main would be about 18,000,000 cubic feet per day. It thus appears that the men who financed this project were of the opinion that they could rely on a supply of gas for at least ten years.

This Commission's rate department has made an exhaustive study of all the elements entering into this question in so far as help could be secured from the evidence in this case. Consideration has been given to the questions of available supply, number and thickness of gas bearing strata, pressure, voids, volume of gas from wells, waste and utilization. In estimating waste, consideration must be given to a number of elements, such as improper drilling, casing and plugging, flowing oil wells, transmission and distribution losses, inefficient utilization in the field and other items. In estimating utilization, it is necessary to consider both the present and the probable future uses. The domestic and commercial requirements of Los Angeles and adjacent territory, now supplied by the present distributing systems, will amount during the coming year, in terms of artificial gas, to approximately 6,800,000,000 cubic feet, or a daily average of something over 18,600,000 cubic feet. The estimated requirement of Los Angeles and adjacent territory for the next five years in terms of artificial gas for domestic and commercial purposes, if the present normal growth continues, has been estimated as follows:

| | |
|-----------|--|
| 1914----- | 6,800,000,000 cubic feet or 18,600,000 cubic feet daily |
| 1915----- | 7,700,000,000 cubic feet or 21,000,000 cubic feet daily |
| 1916----- | 8,825,000,000 cubic feet or 24,150,000 cubic feet daily |
| 1917----- | 10,000,000,000 cubic feet or 27,400,000 cubic feet daily |
| 1918----- | 11,325,000,000 cubic feet or 31,000,000 cubic feet daily |

While the amount of gas consumed will drop materially during the early use of natural gas, the consumption of gas will doubtlessly be increased by reason of the reduced price, so that the consumption will again resume its normal.

It must also be remembered that Los Angeles and vicinity will not be the only customers for natural gas from this field. The California Natural Gas Company (a subsidiary of the Standard Oil Company) utilized during March, 1913, an average daily consumption of 19,000,000 cubic feet for use in the oil fields and distribution in Bakersfield and vicinity. The drain by this company during this year is estimated to amount to about 6,240,000,000 cubic feet. The Honolulu Company is also a heavy user of gas for consumption in the field.

From a careful study of all these elements, the rate department has reached the conclusion that the Southern California Gas Company may reasonably expect to draw on this field for the service of Los Angeles and vicinity for a period of 18.6 years. While the Commission does not

adopt this figure, we refer to it as representing the result of a careful study of all the elements entering into the problem.

In order to be absolutely fair to the gas companies, we shall assume, for the purposes of the present proceeding, that the period during which they may reasonably expect to serve Los Angeles and vicinity from this field is the minimum period on which the men who financed the project counted—a period of ten years.

While we shall allow a rate of depreciation sufficient to return the property within this short period of time, it must be remembered that the conclusions herein reached are only tentative and that when more accurate data has been secured from the experience of the next few years it may be necessary to revise the conclusions herein reached. This necessity for a revision may arise from the construction of a second transmission main, or evidence showing more accurately the life of the field or from other causes. In the mean time, an estimate of a minimum life of ten years will certainly be fair to the men who have financed the project on that period as a minimum.

6. Analysis of Contracts.

We shall now refer briefly to the various contracts which have been entered into and which bear on the subject matter of this proceeding. These contracts may roughly be grouped as follows:

- (a) Contracts to secure adequate gas supply.
- (b) Contracts to control available supply.
- (c) Contract for lease of transmission main.
- (d) Contract for developing wells.
- (e) Contracts with local distributing companies.

We shall now refer to these contracts and comment on them seriatim.

(a) Contracts to Secure Adequate Gas Supply.

1. November 2, 1911—*Honolulu Consolidated Oil Company and John Martin.*

Under this contract the Honolulu Company agrees to deliver to Martin and Martin agrees to take from the company for the period of twenty years from the completion of the pipe line to be constructed from the oil fields to Los Angeles, the following quantities of natural gas produced from the lands of the Honolulu Company:

First year, not less than an average daily supply during each month of 15,000,000 cubic feet;

Second year, not less than an average daily supply during each month of 20,000,000 cubic feet;

Third year, and thereafter, not less than an average daily supply during each month of 25,000,000 cubic feet.

An option is also given to Martin to take an additional 5,000,000 cubic feet per day if the Honolulu Company should have any unsold gas at

its disposal. The Honolulu Company reserves the right to sell gas for use in the Midway oil fields under its existing contracts or renewals thereof not to exceed one third of the gas used in the field, and also to use gas produced by it for the development of its own properties in the Midway oil field.

Martin agrees to construct with diligence a 12-inch main to the city of Los Angeles, to be completed within ten months from the date of the contract.

The contract provides that "the gas shall be delivered at a pressure, according to the requirements of the buyer, up to 450 pounds to the square inch."

Martin agrees to pay for all gas delivered the sum of 5 cents for each 1,000 cubic feet, calculated on a 4-ounce pressure basis. The Honolulu Company agrees to use its best endeavors to develop and maintain a continuous flow of gas upon its lands sufficient to supply the requirements of the buyer, but agrees that if at any time it should fail to deliver to the buyer the amount of gas agreed to be delivered, the buyer should have the right to enter upon the lands of the Honolulu Company, and if necessary, to drill his own wells at the Honolulu Company's account and expense.

The lands covered by the contract include seven sections, or about 4,480 acres. This contract was assigned on November 18, 1911, by John Martin to Midway Gas Company.

This is the contract under which the Honolulu Company is at present supplying gas to the Southern California Gas Company. The Honolulu Company is delivering gas from three wells, and is supplying all or almost all of the needs of the Southern California Gas Company. This gas is being delivered at a pressure which has been increased from an average pressure of 148.4 pounds in June, 1913, 155.5 pounds in July, 1913, and 196.5 pounds in August, 1913, to an average pressure of 242 pounds in September, 1913. There is a dispute between the Honolulu Company and the Southern California Gas Company on the point as to whether it is the duty of the Honolulu Company to deliver the gas at a pressure of 450 pounds to the square inch, and as to whether it is the duty of the Honolulu Company to install a compressor so as to accomplish such delivery or to pay to Southern California Gas Company the price of compressing the gas in the compressor which the Southern California Gas Company is erecting near the main transmission line near the Taft Terminal. Captain Matson, the president of the Honolulu Company, testified that his company intends to deliver the full amount of gas specified in the contract.

This contract was primarily entered into for the purpose of securing an adequate supply of gas in order to insure the success of the proposed pipe line. One of the contracts which the Southern Pacific Railroad

Company, Kern Trading and Oil Company and Associated Oil Company, hereinafter referred to, also provides for securing an additional supply of gas in addition to containing provisions inserted primarily for the purpose of securing control in so far as possible of the gas which might be developed in the oil fields.

(b) Contracts to Control Available Supply.

We shall now consider a number of contracts the primary purpose whereof seems to have been to secure control in so far as possible of such natural gas as might be produced in the Buena Vista Hills field, or any other portion of the Midway oil field.

1. November 17, 1911—Honolulu Consolidated Oil Company and John Martin.

This contract, after referring to the contract of November 2, 1911, provides that if the Honolulu Company should at any time have at its disposal gas in addition to its requirements under its existing contracts or renewals thereof, it would not sell the gas to any person other than Martin in the State of California, outside of the counties of Los Angeles, Orange, San Bernardino, Riverside, and San Diego, without giving to Martin a thirty days' option to take such gas on terms equal to those which might be offered by the other party. The Honolulu Company further agreed that if it should desire to market natural gas at any point in the designated counties, being the remaining portion of California, it would market the same "through the said buyer at a price which shall net to the seller the same rates as it shall be entitled to receive for the gas sold under said contract of November 2, 1911." This contract also was assigned by Martin to the Midway Gas Company on November 18, 1911.

On January 10, 1913, the foregoing contract was modified by an agreement between the Honolulu Company and the Southern California Gas Company, the assignee of the Midway Gas Company. This agreement recites that the Honolulu Company "believes that there exists and that it will be able to produce in the lands referred to in said contract of November 2, 1911, an amount of gas in excess of the amount agreed to be sold by said contract to said Midway Gas Company, as the assignee of said John Martin, including the said five million cubic feet per day covered by said option and in excess of the amounts reserved for first party's (Honolulu Company's) own use in development work and for the operation of gasoline plant up to a capacity of four million cubic feet per day, and the amount required to be furnished to the California Natural Gas Company." The parties thereupon agreed to the cancellation of the contract of November 17, 1911, and of a certain agreement between the Honolulu Company and William G. Kerekhoff, dated February 3, 1912, and the Southern California Gas Company exercised

its disposal. The Honolulu Company reserves the right to sell gas for use in the Midway oil fields under its existing contracts or renewals thereof not to exceed one third of the gas used in the field, and also to use gas produced by it for the development of its own properties in the Midway oil field.

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its option to take an additional five million cubic feet of gas per day, commencing with the fourth year of the twenty-year period referred to in said contract of November 2, 1911.

The Honolulu Company thereupon granted to the Southern California Gas Company the right to purchase and take all of its excess gas at the price of 5 cents per 1,000 cubic feet and the Honolulu Company agreed that it would not "sell or otherwise dispose of any of such excess gas to any person, firm or corporation other than the second party (Southern California Gas Company) at any time during the term of this contract." The Honolulu Company agreed to drill all necessary wells to serve the purposes of the Southern California Gas Company and that in case of its failure so to do, the Southern California Gas Company might itself enter upon the Honolulu Company's lands and there drill for gas. Delivery of gas by the Honolulu Company was to be made at the Taft Terminal of the pipe line constructed by the Midway Gas Company, at a pressure "according to the requirements of the second party up to 450 pounds to the square inch." The contract then contains certain provisions to the effect that the Southern California Gas Company should not drill for gas on territory adjacent to that of the Honolulu Company within certain distances from the boundary lines thereof. There are other provisions in this contract to which it is not necessary to refer. The obvious purpose of the contract is to secure the control of the gas produced on the property of the Honolulu Company.

We shall now consider two contracts between the Southern California Gas Company and the Southern Pacific Railroad Company, the Kern Trading and Oil Company and the Associated Oil Company, which latter three companies will hereafter for convenience be referred to as the Southern Pacific Companies.

2. *March 1, 1912--Southern Pacific Companies and Southern California Gas Company.*

This agreement, which is at times referred to as the "Exploration Agreement," after reciting that the Southern California Gas Company desires "to obtain the exclusive right to develop gas on the lands of the parties of the first and second part herein referred to," and describing the lands covered by the contract, including 8,960 acres claimed by the Southern Pacific Railroad Company and the Kern Trading and Oil Company, provides that the gas company may enter upon said lands to develop gas thereon during a period of twenty years and that this right should be "exclusive to the gas company, except as hereinbelow otherwise specified." The gas company is to bear the entire expense of developing said lands for gas and of producing and carrying gas therefrom. The gas company is to offset all gas wells in contiguous sections threatening the lines or boundaries of the lands referred to in the contract. The gas company is to begin drilling for gas with at least two

strings of tools on such of the lands of the Associated Oil Company as the latter may designate and shall during the first ten years of the contract, run at least two strings of tools constantly upon said lands. The gas company is prohibited from drawing from said lands without the written consent of the Southern Pacific Companies any gas in excess of two thirds of the gas produced, purchased and piped by the gas company from the Midway oil field. It is provided that in case the gas company should in its operations upon these lands strike an oil well, that the Southern Pacific Companies should have the right to purchase such well at cost, and on the other hand that if in drilling for oil the Kern Trading and Oil Company or the Associated Oil Company should encounter gas to the extent of 3,000,000 cubic feet or more daily flow for thirty consecutive days, the gas company should at the option of the party upon whose land such oil well should be found, buy it at actual cost.

The contract further provides that the gas company should not be obligated to take gas encountered by the Southern Pacific Companies in excess of the following amounts, provided that it should have use therefor:

First year, 15,000,000 cubic feet per day.

Second year, 20,000,000 cubic feet per day.

Third year, 25,000,000 cubic feet per day.

The gas company agrees to pay to the Southern Pacific Companies 3 cents per thousand cubic feet for all gas produced and saved by it from the lands embraced in the agreement. As the gas wells encountered by the Southern Pacific Companies are to be paid for by the gas company and as the gas company is, at its own expense, to conduct the drilling operations upon this property, so that the expense of developing the wells is in this way borne by the gas company, it is evident that the price of 3 cents per thousand cubic feet so provided covers a rental or compensation for the use of the land and the price for the gas itself.

3. *March 1, 1912—Southern Pacific Companies, Southern California Gas Company, Midway Gas Company, and William G. Kerckhoff.*

This agreement is at times referred to as the "Supplemental Agreement." After certain recitals the gas company agrees to pay to the Southern Pacific Companies in addition to the 3 cents per thousand cubic feet to be paid for all gas produced and saved upon the lands of the Southern Pacific Companies the further sum of 3 cents per thousand cubic feet "on all gas produced and saved, purchased or piped by the parties of the third and fourth parts, or any of them, from the lands of the Honolulu Consolidated Oil Company, or from the lands of any other owner, lessee or occupant in the Buena Vista Hills and Midway oil field, and also 3 cents per thousand cubic feet on all gas produced and saved

from the lands of said Honolulu Consolidated Oil Company in Buena Vista Hills district or Midway field whether or not produced by the parties of the third or the fourth part, or any of them, except not exceeding one third of the gas which shall be sold by the California Natural Gas Company, for use in the Midway oil field, and except the gas which shall be used by said Honolulu Consolidated Oil Company in the development of its own lands in said Midway oil field, and except the gas which shall be used in the extraction of gasoline from and compression of gas to be transmitted under said contracts with John Martin." In other words, the gas company agrees to pay to the Southern Pacific Companies 3 cents per thousand cubic feet for all gas, with the exceptions stated, produced on the lands of persons other than the Southern Pacific Companies. While there are other provisions in this contract, this provision for the payment to the Southern Pacific Companies of 3 cents per thousand cubic feet for gas produced entirely on the lands of other people is the principal provision of the contract. We shall hereinafter consider in greater detail the purpose of this contract and whether or not the payment of such sum by the Southern California Gas Company may be used to increase the rate which the consumers of gas would otherwise be obliged to pay.

(c) Contract for Lease of Transmission Main.

December 5, 1911—Midway Gas Company and Southern California Gas Company.

By this contract the Midway Gas Company leases to the Southern California Gas Company the transmission main which the lessor contemplated constructing from the oil fields to Los Angeles, for the term of twenty years after its completion for a rental of "five cents per thousand cubic feet for all gas received by the lessee (Southern California Gas Company) in said pipe line." The Southern California Gas Company agrees to perform all of the Midway Gas Company's obligations under the contract of November 2, 1911, with the Honolulu Company, and recites that the Midway Gas Company has placed in escrow a deed conveying to the Southern California Gas Company all its properties and the Southern California Gas Company has executed and placed in escrow an agreement to pay at maturity the principal and interest of all bonds secured or to be secured by the Midway Gas Company's mortgage to Mercantile Trust Company of San Francisco, dated November 20, 1911. The agreement further recites that both parties have signed and delivered to their depository their joint written instructions to the effect that in the event of the termination of the lease or of default under the mortgage, the deed of conveyance from the Midway Gas Company to the Southern California Gas Company shall at once be delivered to the Southern California Gas Company and the Southern California Gas Company's agreement shall likewise be delivered to the

Mercantile Trust Company of San Francisco, the trustee under the bond mortgage. The Southern California Gas Company agrees to operate and maintain the pipe line in good condition, the expense of operation, repairs and renewals to be repaid by the Midway Gas Company out of its rentals.

The effect of this agreement is to place the Southern California Gas Company in the shoes of the Midway Gas Company in the matter of contracts with the Honolulu Company, to place the Southern California Gas Company in possession of the pipe line to be constructed and to relegate the Midway Gas Company to the position of the owner of property receiving rental therefor and simply paying for its maintenance and repairs. As a result of this agreement the Southern California Gas Company becomes the responsible party engaged in the production, transmission and delivery of natural gas from the Buena Vista Hills field.

(d) Contract for Developing Wells.

July 1, 1912—Northern Exploration Company and Southern California Gas Company.

This contract, after reciting certain of the previous contracts hereinbefore referred to, provides in effect, that the exploration company shall do all the drilling for gas wells which the Southern California Gas Company is obligated to perform under its contracts with the Southern Pacific Companies or which the Southern California Gas Company may desire to perform for the production of gas. The functions of the Northern Exploration Company are to be limited to the drilling and bringing in of wells and all other expenses are to be paid by the Southern California Gas Company. The Northern Exploration Company is not to be obligated to keep more than five strings of tools running at any one time. Immediately after any well has been drilled and completed by the Northern Exploration Company it shall be turned over to the Southern California Gas Company. The term of the contract is twenty years.

The Southern California Gas Company agrees to pay the Northern Exploration Company as follows:

(2) Four cents per thousand cubic feet for all gas transmitted through the transmission main of the Midway Gas Company, except such gas as might be used by any electric light or gas company in manufacturing artificial gas or electricity, entirely irrespective of whether this gas is produced as the result of the operation of the Northern Exploration Company or whether it is produced by the Honolulu Company or any other producer. Five per cent of the amount of gas consumed is to be excepted to provide for waste or leakage.

(2) Three quarters of a cent per thousand cubic feet for all gas transmitted through such pipe line and consumed by an electric light or

gas company in the manufacture of artificial gas or electricity for public distribution, entirely irrespective again of whether or not such gas is developed by the Northern Exploration Company.

The testimony shows that the Northern Exploration Company is a subsidiary of the Southern California Gas Company and that practically the same men own both companies. The exploration company was incorporated for the purpose of conducting the drilling operations of the Southern California Gas Company. Instead of paying the Northern Exploration Company the actual cost of its operations, the Southern California Gas Company agreed to pay an arbitrary amount of 4 cents per thousand cubic feet for all gas transmitted through its main, except such portions thereof as might be used for the manufacture of artificial gas or electricity for public distribution, while for the latter gas the Northern Exploration Company was to receive three quarters of a cent per thousand cubic feet of gas so consumed. It is evident that the price so to be paid to the Northern Exploration Company has no logical connection whatsoever with the service performed by that company and as will hereinafter appear, this price is considerably in excess of the cost of producing the gas. The officials of the Southern California Gas Company tried to explain the reason why two prices, one being 4 cents and the other being three quarters of a cent per thousand cubic feet were paid for gas as to which the services of the Northern Exploration Company were exactly the same in either event. The explanation to the effect that it is necessary to have a lower price for gas to compete with oil for manufacturing purposes is not convincing as a justification for a differentiation in the payment to Northern Exploration Company for services which are exactly the same in connection with the production of gas for either use. It would be far simpler if the Southern California Gas Company, instead of having created this subsidiary corporation, itself conducted the drilling operations, in which event the actual cost of such operations, no more and no less, would be charged. It should be noted that of the 5 cents per thousand cubic feet of gas which the Southern California Gas Company claims after paying the Honolulu Company, the Southern Pacific Companies and the Midway Gas Company, 4 cents, while nominally paid to the Northern Exploration Company, is in effect paid to the Southern California Gas Company itself, and that instead of that company having only 1 cent for its services, it is really receiving 5 cents for the work performed by itself through the Northern Exploration Company and for its own overhead and other expenses. The Commission can give no consideration whatsoever to this contract, but will endeavor to ascertain what it actually costs to produce the gas and to give credit in that amount, and that amount only, to the Southern California Gas Company.

(e) Contracts With Local Distributing Companies.

We shall now consider the contracts which have been entered into by the Southern California Gas Company with the local distributing companies in Los Angeles County for the sale by the former as a wholesaler to the latter as retailers of natural gas transmitted through the main constructed by the Midway Gas Company.

1. *March 22, 1912—Southern California Gas Company and Long Beach Consolidated Gas Company.*

This contract provides that the Southern California Gas Company shall sell to the Long Beach Consolidated Gas Company all the gas which the latter shall use or distribute in the city of Long Beach, together with all extensions to the cities of Wilmington and San Pedro and such other beach cities to the south of the city of Long Beach as may hereafter be supplied by the Long Beach Company, this gas to include both artificial and natural gas. The Southern California Gas Company agrees to construct at its own expense a suitable pipe line for transmitting the gas, not to exceed 8 inches in diameter from its gas plant in the city of Los Angeles to a point on the northerly limits of the city of Long Beach. The point of delivery is at the termination of this pipe line outside of the limits of the city of Long Beach. After providing for the payment to be made for artificial gas, if delivered, the agreement specifies the price to be paid for natural gas, which shall be "the actual cost to the company of such natural gas at the terminus of the Midway Gas Company's pipe line, including cost of compression at the company's works, if necessary," together with interest at the rate of 6 per cent per annum on that proportion of the company's investment which is necessary to supply the consumer, based on the ratio that the proceeds of gas delivered to the consumer bears to the total proceeds of gas generated or transmitted by or through such investment, which investment includes for natural gas the high pressure transmission line from the terminus of the Midway Gas Company's line to the company's gas works, the machinery located in said gas works used in the compression or delivery of gas to the consumer and the high pressure transmission line from the gas works to the point of delivery to the consumer. Depreciation at 5 per cent per annum is to be included on the investment as well as an amount to provide for taxes equal to 4 per cent of the gross amount paid by the consumer to the company under the agreement. This amount has now been increased by the legislature of this State to 4.6 per cent. An allowance of 5½ per cent shall also be added to provide for leakage on the transmission line. The agreement is to last for ten years from the date of the completion of the pipe line from the Southern California Company's gas plant.

Under this contract the Southern California Gas Company constructed an 8-inch main from its works in the city of Los Angeles to the boundary

of the city of Long Beach, a distance of 17.926 miles, at an expense of \$67,583.13, and mixed gas is now being delivered through said pipe line to the Long Beach Consolidated Gas Company.

2. *September 23, 1912—Southern California Gas Company and Southern California Edison Company.*

This agreement provides that the Southern California Gas Company shall deliver to the Southern California Edison Company and the latter company shall take all gas, both natural and artificial, which the latter company may use in the operation of its gas distributing system in the cities of Venice, Santa Monica and Sawtelle. The Southern California Gas Company agrees to construct at its own expense a suitable pipe line not less than 6 inches in diameter for conveying gas from its regulator station in Wilshire boulevard at the corner of Van Ness avenue in Los Angeles to a point on the northwesterly line of the city of Sawtelle. The point of delivery is at the termination of this pipe line. The consumer agrees to pay to the Southern California Gas Company for natural gas a sum equal to its cost at the point of delivery, together with an additional sum of 1 cent for each one thousand cubic feet of gas delivered. The term "cost to the company" is defined to include, in the case of natural gas, the actual cost to the Southern California Gas Company at the terminus of the Midway Gas Company's pipe line, including the cost of compression at the company's works, if necessary, plus interest figured at 6 per cent per annum and depreciation figured at 5 per cent per annum on that proportion of the cost of the transmission line from the terminus of the Midway Gas Company's line to the company's gas works necessary to supply the consumer, based on the ratio that the natural gas sold to the consumer bears to all gas transported through said line, plus a fixed sum of \$300.00 per month to cover depreciation on the transmission line from the company's works necessary to supply the consumer, plus an amount for taxes equal to 4 per cent of the gross amount paid by the consumer to the company under the agreement, plus an allowance of 5½ per cent to provide for leakage on the transmission main.

The term of the agreement is to be ten years from the date of the completion of the pipe line to the point of delivery.

Under this agreement the Southern California Gas Company has constructed a pipe line partly 8 inches in diameter and partly 6 inches in diameter to Sawtelle, a distance of 14.749 miles, at an expense of \$38,344.70.

3. *October 26, 1912—Southern California Gas Company and Los Angeles Gas and Electric Corporation.*

This contract provides for the supply by Southern California Gas Company to Los Angeles Gas and Electric Corporation of all the natural

gas necessary each day to properly supply all the latter company's customers and consumers, not exceeding 70 per cent of the carrying capacity of the transmission main or mains. The point of delivery is to be the West Glendale terminus of the Midway Gas Company's main at the corner of San Fernando road and Sycamore avenue, in the county of Los Angeles outside the limits of the city of Los Angeles. The Southern California Gas Company agrees to construct a 16-inch main from the southerly end of the Midway Gas Company's main to the intersection of the northerly limits of the city of Los Angeles, from which point the gas is carried through a main built for account of the Los Angeles Gas and Electric Corporation, to the works of the latter company. The Los Angeles Company agrees to pay to the Southern California Gas Company for the use of the main to be built by the latter between the end of the Midway Gas Company's main and the city limits of Los Angeles an annual rental equal to 12 per cent of the cost of the construction and installation thereof. The term of the contract is to be until December 1, 1932.

The prices to be paid for all gas other than such as is used by the Los Angeles Company at its artificial gas and electric generating plants, compressor stations and offices are as follows:

(a) For gas from the lands of the Honolulu Company, 18 cents per one thousand cubic feet.

(b) For gas from the lands of the Southern Pacific Companies, 13 cents per one thousand cubic feet, provided that if the Southern California Gas Company must pay 5 cents instead of 3 cents per one thousand cubic feet for any of this gas, the price to be paid shall be increased from 13 cents to 15 cents.

(c) For gas from any other lands in the Buena Vista Hills or Midway oil fields, 13 cents per one thousand cubic feet plus the price paid by the Southern California Gas Company to the party from whom it secures the gas.

The prices to be paid for all gas furnished for the Los Angeles Gas and Electric Corporation's own consumption, at its artificial gas and electric generating plants, compressor stations and offices are as follows:

(a) For gas from the lands of the Honolulu Company, 14.3 cents per one thousand cubic feet.

(b) For gas from the lands of the Southern Pacific Companies, 8.8 cents per one thousand cubic feet, with 11 cents if the Southern California Gas Company pays 5 cents instead of 3 cents per one thousand cubic feet.

(c) For gas from any other lands in the Buena Vista Hills or Midway oil fields, the price paid for gas used for other purposes less 5 cents per one thousand cubic feet plus 10 per cent.

Mr. A. C. Balch of the Southern California Gas Company testified that certain of these prices were ascertained as follows:

(a) For gas from the lands of the Honolulu Company and thereafter distributed among domestic consumers:

| | |
|---|---------|
| To the Honolulu Company----- | 5 cents |
| To the Southern Pacific Companies----- | 3 cents |
| To the Midway Gas Company----- | 5 cents |
| To the Northern Exploration Company----- | 4 cents |
| To the Southern California Gas Company----- | 1 cent |

| | |
|-------------|----------|
| Total ----- | 18 cents |
|-------------|----------|

(b) For gas from the lands of the Honolulu Company and thereafter used under the boilers of the Los Angeles Gas and Electric Corporation, etc.: The same as above except that three quarters of a cent only is paid to the Northern Exploration Company, leaving a total of 14.3 cents.

(c) For gas from the lands of the Southern Pacific Companies and thereafter distributed among domestic consumers: The same as (a) except that the 5 cents paid to the Honolulu Company is not payable here, leaving a balance of 13 cents. If the Southern California Gas Company pays 5 cents instead of 3 cents to the Southern Pacific Companies, the price to be paid by the Los Angeles Gas and Electric Corporation will be increased from 13 cents to 15 cents.

The Southern California Gas Company also agrees in this contract to build a second main transmission line from the Taft Terminal to the West Glendale Terminal, to have a diameter of sixteen inches and to be in operation not later than November 1, 1913, unless otherwise expressly provided. This second main has not been built, nor has any release of this obligation been given.

Under this contract, the Southern California Gas Company constructed a 16-inch main from the West Glendale Terminal to the city limits, a length of 1.008 miles. The cost of this line, together with a farther 2.227 miles which the Southern California Gas Company seems to have constructed within the city of Los Angeles for account of the Los Angeles Gas and Electric Corporation, was \$34,175.26. The cost applicable to the main owned by the Southern California Gas Company would seem to be \$10,648.73. The delivery of natural gas through this line to Los Angeles Gas and Electric Corporation started on April 28, 1913, and the amounts delivered from May have been as follows:

| | |
|-----------------------|------------------------|
| May, 1913 ----- | 7,358,400 cubic feet |
| June, 1913 ----- | 96,132,000 cubic feet |
| July, 1913 ----- | 136,121,000 cubic feet |
| August, 1913 ----- | 193,259,000 cubic feet |
| September, 1913 ----- | 228,842,000 cubic feet |

Of the amounts so delivered, over one half have been used in the gas generators and under the boilers of the Los Angeles Gas and Electric Corporation in lieu of oil for the manufacture of artificial gas.

By agreement dated April 28, 1913, between these two companies, it is recited that the Southern California Gas Company has been unable to deliver the full amount contracted to be delivered, and it is provided that the price to be paid by the purchaser until the full supply is available shall not exceed an average price of 12 cents per one thousand cubic feet. A letter from A. N. Kemp, first vice-president of the Southern California Gas Company, to the Los Angeles Gas and Electric Corporation, dated April 19, 1913, and attached to the contract, states that approximately one half of the gas will be billed at 8.8 cents and the other half at 14.3 cents, making an average price of approximately 11.55 cents per one thousand cubic feet.

4. *October 26, 1912—Southern California Gas Company and Economic Gas Company.*

This contract provides for the delivery by Southern California Gas Company to Economic Gas Company of Los Angeles, of natural gas sufficient to supply all the customers and consumers of the Economic Gas Company and for its own uses in operating its artificial gas generating plant, compressor station and offices, not less than 200,000,000 cubic feet per year nor more than an average of 3,000,000 cubic feet per day, but not in excess of $7\frac{1}{2}$ per cent of the carrying capacity of the Midway Gas Company's main or mains. The point of delivery is to be at the West Glendale Terminus of the Midway Gas Company's main. It is thence to be conveyed through the Southern California Gas Company's 16-inch main to the latter company's works in Los Angeles and thence through an 8-inch main, specially constructed by the Southern California Gas Company for that purpose, to Economic Gas Company's plant in Los Angeles. The Economic Gas Company agrees to pay to Southern California Gas Company for the use of the pipe lines constructed by the latter company such proportion as the gas conveyed through them for the Economic Gas Company bears to the total gas conveyed through them, of 12 per cent per annum of the cost of the construction and installation of said pipe lines. The prices to be paid for natural gas so delivered are the same as those specified in the contract between the Southern California Gas Company and the Los Angeles Gas and Electric Corporation, dated October 26, 1913, and hereinbefore referred to. The term of the contract is to be until December 1, 1932.

Under this contract, the Southern California Gas Company, in addition to its 16-inch main from the West Glendale Terminal to its works in Los Angeles, has constructed an 8-inch main for a distance of 2.256 miles from its works to the works of the Economic Gas Company in Los Angeles, for the latter company's exclusive use, at a cost of \$17,698.24. Under this contract, the Southern California Gas Company has been delivering and is now delivering "mixed gas" to the Economic Gas Company through said main.

5. *January 17, 1913—Southern California Gas Company and Western Fuel, Gas and Power Company.*

By this contract, the Southern California Gas Company agrees to deliver and the Western Fuel, Gas and Power Company to buy all the gas which the latter company shall distribute in Redondo or in the vicinity thereof. The point of delivery is the point where the seller's transmission line intersects the city limits of Redondo, but outside of said limits. The customer agrees to pay to the seller in the case of natural gas the sum of one cent for each thousand cubic feet delivered plus the cost to the seller, which is defined to include, in the case of natural gas, the actual cost to the company of such gas at the southern terminal of the Midway Gas Company's pipe line; plus cost of compression at the company's works, if compressed; plus interest at six per cent per annum and depreciation at 5 per cent per annum on that proportion of the cost of the transmission line from the terminus of the Midway Gas Company's line to the Southern California Gas Company's gas works and that proportion of the cost of the transmission line from said company's works to the point of delivery, based on the ratio that the natural gas sold to the customer bears to all gas transmitted through said lines; plus an amount for taxes equal to the percentage of gross amount paid by the customer to the seller, now 4.6 per cent, plus an allowance of $5\frac{1}{4}$ per cent of the total cost for leakage.

Under this contract the Southern California Gas Company built a 12-inch main a distance of 19.609 miles from its works to Redondo, with an 8-inch branch line to Torrance, at a total cost of \$139,217.66. This line is much larger than the lines built to serve other points in the vicinity, for the reason that the Southern California Gas Company expected to deliver through it a large amount of gas for use under the boilers of the Redondo plant of the Pacific Light and Power Corporation. Delivery under this contract started on July 7, 1913, since which time nothing but natural gas has been delivered through this main.

The foregoing contracts all contain provisions for the delivery by the Southern California Gas Company of artificial gas as well as natural gas, and many other provisions, to which it has not been thought necessary to refer.

The basic principle underlying all these contracts is a payment by the distributing company of the cost of the gas delivered at the West Glendale end of the Midway Gas Company's main, plus interest and depreciation on the additional investment on the part of Southern California Gas Company necessary to serve each local distributing company, plus items for taxes and leakage. It should be noted that in the contracts with the Los Angeles Gas and Electric Corporation and the Economic Gas Company, the point of delivery is clearly stated to be at the West Glendale Terminal.

The Commission's object in this inquiry is to ascertain the fair and reasonable cost of the gas delivered at the West Glendale Terminal. The Commission is not disposed at the present time to interfere with the contracts in so far as they provide for interest and depreciation on additional investment, taxes and leakage. The contracts were made at arm's length and represented what the parties considered a fair sum to be paid by each local distributing company in addition to the cost of the gas at the West Glendale Terminal. The theory of the contracts is that each company should pay an added amount proportionate to the additional investment necessary to convey the gas to it from the West Glendale Terminal. While this arrangement presents a very important question in the theory of public utility rates, the Commission does not deem it necessary at the present time to disturb the contracts in the respects hereinbefore indicated. In permitting the contracts to stand, for the present, in these respects, it must not be assumed that the Commission necessarily approves the theory on which they are based or the details of arriving at the amounts to be paid. It will be sufficient for the present inquiry to ascertain and establish the rate to be paid for natural gas delivered at the West Glendale Terminus of the Midway Gas Company's line, and to this problem we shall now address ourselves in detail.

To determine this matter, it will be necessary now to consider the following subjects: investment, operating expenses, depreciation, royalties, rate of return and the rate.

7. Investment.

Under this head we shall consider the following items:

- (a) Wells.
- (b) Drilling equipment.
- (c) Gathering lines.
- (d) Transmission main.
- (e) Compressor station.

(a) Wells.

A return on the Honolulu Company's investment in gas wells is included in the price of 5 cents per thousand cubic feet which the company receives for all gas delivered by it. As full credit will be given these payments under the head of operating expenses, we shall consider under the head of investment for wells only the investment made on other lands to serve the transmission main.

The cost of the wells now completed has been as follows:

PURCHASED FROM ASSOCIATED OIL COMPANY.

| | |
|---|-------------|
| Well No. 1--Section 20, township 31 south, range 23 east----- | \$62,688 59 |
| Well No. 2--Section 20, township 31 south, range 23 east----- | 29,159 62 |
| Well No. 1--Section 26, township 31 south, range 23 east----- | 51,984 77 |

DRILLED BY NORTHERN EXPLORATION COMPANY.

| | |
|--|-------------|
| Well No. 2—Section 26, township 31 south, range 23 east----- | \$40,645 89 |
| Well No. 3—Section 26, township 31 south, range 23 east----- | 25,781 72 |

Cost uncompleted wells drilled by Northern Exploration Company, with amount estimated to complete them, as given by Superintendent H. H. McClintock, is as follows:

| | Expended | Estimated to complete | Total |
|---|-------------|-----------------------|--------------|
| Well No. 4—S. 26, T. 31 S., R. 23 E.----- | \$13,793 77 | \$32,000 00 | \$45,793 77 |
| Well No. 1—S. 22, T. 31 S., R. 23 E.----- | 34,508 88 | 20,000 00 | 54,508 88 |
| Well No. 3—S. 22, T. 31 S., R. 23 E.----- | 27,665 69 | 10,000 00 | 37,665 69 |
| Well No. 1—S. 16, T. 32 S., R. 24 E.----- | 19,822 11 | 11,000 00 | 30,822 11 |
| Grand total ----- | | | \$379,051 04 |

The wells drilled by the Associated Oil Company were taken over by the Southern California Gas Company as provided in the contract between the Southern Pacific Companies and the Southern California Gas Company dated March 1, 1912. Their cost is in excess of their real cost as gas wells for the reason that the Associated Oil Company wants oil and not gas and that after reaching gas further large expenditures were made in an effort to convert the gas well into an oil well. The cost price of the two wells hitherto completed by the Northern Exploration Company was taken from the books of the company and includes charges for overhead expenditures, such as superintendence and office expenses. The three wells drilled by the Associated Oil Company have never been drawn upon, and the two drilled by the Northern Exploration Company are used only in case of failure of the Honolulu Company to deliver the entire amount of gas needed by the transmission main. Hence these five wells may all be properly regarded as reserve wells.

There is considerable doubt as to what portion of the uncompleted wells being drilled by the Northern Exploration Company should be included as investment in this proceeding. Any one of them may come in as an oil well any day, in which event its cost could not be considered in this inquiry. Only recently Well No. 2, on section 22, township 31 south, range 23 east, which was being bored by the Northern Exploration Company for gas, came in as a big flowing oil well. Of the four uncompleted wells, two show indications of oil, one looks like a gas well, and the fourth is suspended and may be a loss. By allowing the present and estimated future cost of all these four wells, the Commission will be more than liberal in its estimate.

We shall allow the full present cost and estimated cost to complete all these wells, amounting to a total of \$379,051.04. For the reasons hereinafter stated, we shall estimate the cost of producing any additional gas which it may be necessary to develop and shall consider such cost under the head of operating expenses.

(b) Drilling Equipment.

In addition to the investment in wells, there should be included in the investment the drilling equipment necessary to continue drilling operations to provide for a supply of gas in the future. As representing a reasonable investment, we desire to draw attention to the following investment for this purpose claimed by the Northern Exploration Company, which is now running five strings of tools:

| | |
|-------------------------------------|--------------------|
| Drilling tools ----- | \$24,990 78 |
| Equipment ----- | 2,777 92 |
| Field lines (gas and water) ----- | 1,912 19 |
| Buildings ----- | 5,387 21 |
| Field instruments ----- | 326 74 |
| Automobiles ----- | 3,138 13 |
| Materials and supplies ----- | 19,777 39 |
| Office furniture and fixtures ----- | 1,004 31 |
| Commissary ----- | 1,025 78 |
| General field information ----- | 222 72 |
| Legal expenses ----- | 2,381 03 |
| Insurance ----- | 1,038 00 |
| Total ----- | \$63,982 20 |

For the purpose of this investigation, we shall allow an investment of \$70,000.00 as ample to cover all necessary field development equipment.

(c) Gathering Lines.

The report of this Commission's department of statistics and accounts shows that Southern California Gas Company invested in gathering lines to convey gas from the wells to the Taft Terminal to September 30, 1913, the sum of \$67,337.06. This amount will be allowed.

It appears that the Southern California Gas Company is also contemplating the construction of additional gathering lines in the field and the construction of a second transmission main connecting therewith and running from the Taft Terminal past but not through the compressor station into the present transmission main for the purpose of transmitting gas of a pressure so high that it is not necessary to pass it through the compressor station. The estimate for these gathering lines is \$61,597.69, and for the transmission main \$34,796.59. None of these expenditures have as yet been incurred. The argument in support of such expenditure is that the company does not desire to mix high pressure gas with low pressure gas for the reason that it would result in injury to either the high pressure or the low pressure wells in the field and that such a course would save the operating expenses for compression for part of the gas.

On the other hand, the Honolulu Company has contracted to deliver 15,000,000 cubic feet of gas during the first year, 20,000,000 cubic feet during the second year and more thereafter "at a pressure, according to the requirements of the buyer, up to 450 pounds to the square inch." The Honolulu Company is now delivering gas to the present capacity of

the transmission main and will soon be called upon to deliver 20,000,000 cubic feet per day, which will be at least the capacity of the present main when the gaskets have been replaced so as to stop the present serious loss from blowouts. At the hearing Captain Matson, of the Honolulu Company, testified that this company intended to live up fully to its contracts and we are convinced that the company will do so if it can. As bearing on its ability to do so, we would draw attention to the fact that the Southern California Gas Company's full needs are now being supplied from three of the Honolulu Company's wells. We call attention also to the fact that the pressure at the Taft Terminal has gradually increased from an average of 151 pounds on June 1, 1913, to an average of 246 pounds on September 30, 1913. In other words, the contrast is not between high pressure wells and low pressure wells, but between high pressure wells and other wells whose average pressure is considerably above the low pressure units of the compressor plant. While we do not desire to be placed in the position of advising the Southern California Gas Company whether or not it should incur this additional expenditure of almost \$100,000.00, we are convinced that it would not be reasonable at the present time to include these possible expenditures as a part of the investment in this proceeding. The expenditures have not been made, and there would seem to be considerable doubt as to the wisdom of incurring them, at least for some time to come.

(d) Transmission Main.

As hereinbefore stated, the transmission main to carry the gas from Taft Terminal to the West Glendale Terminal consists of 111.1 miles of 12 $\frac{3}{4}$ -inch outside diameter 31-pound lap welded steel pipe, connected by means of Bresser couplings.

This main was constructed by the Midway Gas Company, whose records show accurately and in detail the entire expenditure thereon. These expenditures have been examined by this Commission's experts, who report them to be reasonable in amount. The entire cost of the mains as of August 31, 1915, as shown by the Midway Gas Company's books, is as follows:

.

Expenditures for Mains, etc.

| | | Prior to April 23, 1913 | Subsequent to April 28, 1913 | Total |
|--|-------------|----------------------------|---------------------------------|-----------------------|
| Franchises | | | \$200 00 | \$200 00 |
| Rights of way | | \$39,151 09 | | 39,151 09 |
| Transmission mains | | 1,194,260 66 | 706 06 | 1,194,966 72 |
| Surveys | \$11,827 66 | | | |
| Roads and bridges | 78,809 91 | | | |
| Rent storage yards | 487 00 | | | |
| Local general group | 68,353 35 | | | |
| Home office group | 25,079 23 | | | |
| Trenching | 81,587 86 | | | |
| Pipe, f. o. b. mill | 308,792 20 | | | |
| Pipe coating | 18,283 48 | | | |
| Freight | 188,803 71 | | | |
| Valves | 11,556 66 | | | |
| Service connections | 1,468 95 | | | |
| Couplings | 67,514 42 | | | |
| Pipe, storage and loading .. | 12,559 75 | | | |
| Hauling pipe | 97,690 85 | | | |
| Laying pipe | 40,821 51 | | | |
| Testing | 13,143 64 | | | |
| Subsidiary connections | 8,156 85 | | | |
| Clearing landscape | 2,856 58 | | | |
| Engineering fees | 22,500 00 | | | |
| Los Angeles office expense .. | 1,091 70 | | | |
| Interest and discount | 74 12 | | | |
| Auxiliary operating fea- tures | 10,893 22 | | | |
| Employment agency | 3,459 70 | | | |
| Test (miscellaneous ac- count) | 17,921 42 | | | |
| Automobile equipment | 31,621 83 | | | |
| Tools and equipment | 35,852 31 | | | |
| Boarding house equipment .. | 13,244 22 | | | |
| Hospital equipment | 251 78 | | | |
| Stable equipment | 5,018 42 | | | |
| J. G. White, sundry expense .. | 3,310 27 | | | |
| Insurance | 4,959 71 | | | |
| Price, Waterhouse & Co. | 2,500 00 | | | |
| Pay roll | 2,707 53 | | | |
| Miscellaneous | 1,060 82 | | | |
| Patrol houses | | 19,327 60 | 400 54 | 19,728 14 |
| Terminal stations and houses | | 53,616 15 | 8,748 98 | 62,365 13 |
| Meters and regulators | | 10,359 44 | 92 66 | 10,452 10 |
| Telephone lines | | 33,184 61 | | 33,184 61 |
| Special foundations | | 28,081 97 | | 28,081 97 |
| Auto equipment | | 11,125 00 | | 11,125 00 |
| Tools and equipment | | 4,438 00 | 1,015 69 | 5,453 69 |
| General equipment | | | 36 00 | 36 00 |
| Boarding house equipment .. | | 1,169 34 | 12 32 | 1,181 66 |
| Stable equipment | | 1,051 59 | 242 87 | 1,294 46 |
| Water mains | | 15,958 97 | | 15,958 97 |
| Engineering equipment | | 605 80 | | 605 80 |
| General office equipment | | 312 85 | 9 45 | 322 30 |
| Legal expense during con- struction | | 5,640 00 | | 5,640 00 |
| Taxes during construction .. | | 611 06 | | 611 06 |
| Interest during construc- tion | | 82,142 00 | | 82,142 00 |
| Miscellaneous | | 5,962 28 | | 5,962 28 |
| Totals | | \$1,507,031 41 | \$11,461 57 | \$1,518,493 98 |

To this total should be added the following items:

| | |
|------------------------------------|-----------------------|
| Construction work in progress----- | \$380 60 |
| Legal expenses ----- | 755 00 |
| Incorporation fees ----- | 307 00 |
| Miscellaneous ----- | 24 45 |
| Grand total ----- | \$1,519,963 03 |

With reference to promotion expenses, it appears that capital stock of the face value of \$2,997,500.00 was issued to John Martin in exchange for his two contracts with the Honolulu Company, and without the payment of any cash. As will hereinafter appear, the Southern California Gas Company can produce gas for at least as low as the 5 cents per thousand cubic feet which it pays to the Honolulu Company under said contracts. While Martin and his associates used portions of this stock to aid in the sale of the bonds, it appears that Martin sold bonds of the face value of \$500,000.00 at the full price which he paid for them and that he retains about 7 per cent of the stock. The other promoters also retain large portions of the stock for which they gave nothing. In view of the fact that the rate of return herein allowed will be larger than the interest paid on the money borrowed to build the plant plus the amount necessary to amortize the discount on the bonds, so that there will be a margin for dividends on the stock or for increasing the value of the plant, we believe that the promoters have already been compensated in the ownership of the stock for promotion services and that no additional amount need be added to investment under this head.

We shall accordingly allow as investment for transmission main and appurtenances the sum of \$1,519,963.03.

(e) Compressor Station.

The Southern California Gas Company is now constructing near the Taft Terminal, along the main transmission line, a compressor station for the purpose of increasing the pressure of the gas to 450 pounds to the square inch. The present installation is to consist of three Cooper-Hall two-stage compressor units of 1,000 horsepower each. The rated capacity of each unit is 15,000,000 cubic feet per day of continuous operation. One unit is to take the gas at a pressure of 45 pounds and to deliver it at 145 pounds, and the other two are to take it at or above 145 pounds and to deliver it into the line at a pressure of 450 pounds. The expenditures for the compressor to October 1, 1913, were represented by the Southern California Gas Company to be \$45,996.80 and the estimated total expenditure for the installation of the three units now being built is \$461,595.10. It is estimated that when the fourth unit is installed, if installed, it will cost the sum of \$60,000.00, making the total complete for the four units \$521,593.10.

In view of the Honolulu Company's contract to deliver during this ensuing year 20,000,000 cubic feet of gas per day and during the next

year 25,000,000 cubic feet—an amount clearly in excess of the capacity of the present single transmission main—and of the Honolulu Company's apparent ability to make good, considerable doubt has arisen in our minds as to whether we could reasonably at the present time with only one transmission main allow any portion of the cost of this plant under the head of investment. If it became necessary to compress the gas delivered by the Honolulu Company and to charge the cost against that company, the charge so made would appear as a deduction from the 5 cents per thousand cubic feet of gas now paid to the Honolulu Company and would thus be taken care of in operating expenses.

Mr. A. C. Balch testified that the plant was being constructed largely as a protection to assure a continuous supply of gas in case the Honolulu Company should fail to carry out its contract and in case it were found impossible then to develop and maintain enough high pressure wells to supply the needs of Los Angeles County. Such evidence as there is in this proceeding tends strongly to show that neither of these contingencies will occur. While we have finally concluded, in order to be absolutely fair to the men who are financing this enterprise, to include this item in investment, we shall not allow the \$60,000.00 which is the estimated amount to construct the second low stage unit which it is not now planned to construct. Nor shall we allow the cost of the low stage unit now being constructed for the reason that this stage only compresses gas from 45 pounds to 145 pounds, while the pressure of the gas being delivered by the Honolulu Company has attained an average of 246 pounds and is steadily advancing. In other words, there is absolutely no need for any low stage unit now and no reasonable prospect for its need during the next few years. While we have been unable to ascertain the proportion of the cost of the compressor which is fairly chargeable to the low stage unit now being constructed, it will be considerably in excess of the \$60,000.00 unit for which space has been provided in the plant as now being built. By subtracting only \$60,000.00 from the estimated cost of \$461,593.10 to complete the first three units, we shall err, if at all, on the side of liberality. We shall allow \$401,593.10 for this item as investment.

The total investment to be allowed, on which a reasonable return should be earned, is accordingly as follows:

| Item | Present | Required | Total |
|---|-----------------------|-----------------------|-----------------------|
| Wells (completed) ----- | \$210,260 59 | | \$210,260 59 |
| Wells (drilling) ----- | 95,790 45 | \$73,000 00 | 168,790 45 |
| Drilling equipment ----- | 63,982 20 | 6,017 80 | 70,000 00 |
| Gathering lines ----- | 67,337 06 | | 67,337 06 |
| Transmission main ----- | 1,519,963 03 | | 1,519,963 03 |
| Compressor station (estimate to complete these units) ----- | 461,593 10 | Subtract 60,000 00 | 401,593 10 |
| Totals ----- | \$2,418,926 43 | \$19,017 80 | \$2,437,944 23 |

8. Operating Expenses.

As hereinbefore stated, the wells drilled and now being drilled for gas other than those of the Honolulu Company, will be considered as part of the investment, but the cost of such wells as must hereafter be drilled will be charged to operating expenses.

As a matter of theory it would be possible either to consider the cost of these wells as a part of capital account, charging off each year the proper amount for operation, maintenance and depreciation, or to ascertain the cost of producing the gas and simply to charge this amount to operating expenses as has been done with the gas secured from the Honolulu Company. In view of the fact that the life of the wells is comparatively short, and that they will in part be completely worn out prior to the expiration of the ten-year period herein referred to, and of the difficulty of estimating the exact number of wells necessary to be drilled during said period, and of the presence in the record of sufficient evidence on which to reach a conclusion under the second method, we have decided to ascertain the cost per thousand cubic feet of producing additional gas and to allow that amount as operating expenses. The net result under either theory would be practically the same.

The first item to be considered under this head is the cost of developing additional gas, consisting of the cost of drilling the wells and the cost of the gathering lines.

The evidence shows that the average cost of drilling the three gas wells which were drilled by the Associated Oil Company and turned over to the Southern California Gas Company was \$47,944.33. These wells, as hereinbefore pointed out, were unusually expensive. The average cost of these three wells plus the two drilled by the Northern Exploration Company was \$42,052.12. The evidence shows that the average cost of drilling the successful gas wells of the Honolulu Company was \$34,092.00. Assuming one failure to two successful gas wells, which assumption is established by the evidence, the average cost of a successful gas well, making due allowance for failures, would be \$51,138.00. By adding an average cost of \$3,000.00 for gathering lines, as assumed by Ford, Bacon & Davis, we secure a total of \$54,138.00, which we shall consider to be the cost of an average successful gas well in this field, with the necessary gathering lines.

We shall now direct our attention to the average life of these wells and the average estimated daily output. From a study of the history of all the gas wells in this field, beginning with the earliest Standard Oil Company well, No. 1 on section 26, township 31 south, range 23 east, which was completed on October 11, 1909, up to the present time, including three wells of the Associated Oil Company, fourteen of the Standard Oil Company, two of the Northern Exploration Company and seven of

the Honolulu Company, bearing in mind the performance of the wells bored, the initial open flow volume and rock pressure and the subsequent reductions both in volume and pressure, we have reached the conclusion that it is reasonable to assume an average life of five years per well with an estimated daily output during said period of 2,000,000 cubic feet. We accordingly have the following table showing the cost of maintaining a gas supply, as an operating expense:

| | |
|---|------------------------------------|
| Estimated cost of each producing well..... | \$54,138.00 |
| Estimated daily output for 5 years..... | 2,000,000 cubic feet |
| Estimated total output | 3,650,000 thousand cubic feet |
| Cost per thousand cubic feet of gas deliver- able into line..... | 1.48 cents per thousand cubic feet |

It should be noted in this connection that in the contract with the Honolulu Company and the Southern Pacific Companies the parties apparently assumed a cost of 2 cents per thousand cubic feet for producing the gas and 3 cents for rental of the land and the value of the gas itself. As hereinbefore shown, the cost of developing the gas will probably be less than that assumed in these contracts.

The following table represents what we consider to be fair annual operating expenses in addition to the cost of developing the supply:

Operating Expenses.

| Item | Operation | Maintenance | Total |
|---------------------------|--------------------|--------------------|---------------------|
| Gas wells | \$7,581 02 | \$3,790 51 | \$11,371 53 |
| Drilling equipment | | 700 00 | 700 00 |
| Gathering lines | 3,366 85 | 1,316 74 | 4,713 59 |
| Compressor plant: | | | |
| Labor | \$12,060 00 | | |
| Supplies | 2,000 00 | 14,063 81 | 25,103 81 |
| Transmission system | 45,598 89 | 15,199 63 | 60,798 52 |
| Total | \$70,606 76 | \$32,089 69 | \$102,687 45 |
| General expense | | | 18,214 25 |
| Grand total | | | \$120,901 70 |

There is no evidence bearing on the question of the operating and maintenance expenses applicable to wells. We have allowed 2 per cent of their cost for operating and 1 per cent for maintenance, which allowance we believe to be ample. Referring to drilling equipment, the operating expense and a greater portion of current repairs are necessarily included in the cost of maintaining a gas supply. However, we have added 1 per cent of the total value for maintenance annually. The charge for gathering lines is 5 per cent for operation and 2 per cent for maintenance. The operating expenses for the compressor plant have been calculated on the basis of one superintendent, three engineers,

three assistants and two helpers. The maintenance expenses are two or three times as much as they would have been had the plant been constructed as a steam driven station. For the transmission main we have estimated an annual operating expense of 3 per cent of the transmission investment for operation and 1 per cent for maintenance. This estimate is slightly in excess of the expenses shown by the report for an actual operation of this main during four months, as prepared by the Commission's department of statistics and accounts from the actual records.

To these operating expenses will be added taxes, amounting to 4.6 per cent of the gross revenue, as provided by chapter 6 of the Laws of 1913. An allowance of 13.3 per cent of the gas received, will also be made for losses, estimated as follows:

| | | |
|-------------------------|---------------|---------------------|
| Compressor station— | | |
| Fuel | 2.74 per cent | |
| Miscellaneous | .16 per cent | |
| | | 2.9 per cent |
| Transmission line | | 10.0 per cent |
| Not classified | | 4 per cent |
| | | <hr/> 13.3 per cent |

9. Depreciation.

The allowance here made under the head of depreciation is not the allowance usually made for deterioration of the physical property due to use, age, obsolescence or inadequacy. The allowance, here made, is much larger than would be necessary for these purposes. As hereinbefore stated, we have assumed a minimum life of ten years for the field available to Southern California Gas Company. The actual life of most of the physical elements of the plant will undoubtedly be in excess of ten years. Under the heading of depreciation, we shall now allow a sufficient amount for each item, such that if deposited at only 4 per cent compound interest it will at the end of ten years retire the entire principal less the estimated salvage at the end of said period. In other words, this allowance will repay to the promoters of this enterprise their entire capital invested, within only ten years, less the salvage. If the field lasts longer than ten years, as is probable, it is obvious that a further adjustment in the rate must hereafter be made. For the present, we believe that we are entirely fair to the promoters of this enterprise by providing for the return of the entire investment in ten years in addition to allowing a reasonable return on the investment in the mean time. If the field lasts longer than ten years, the owners of this enterprise will thereafter make very large profits which it might be fair then to share with the public on some basis hereafter to be determined.

The following table shows the capital invested, the estimated salvage

and the so-called depreciation annuity for each of the items which enter into the investment :

| Item | Capital | Salvage | Depreciation annuity |
|--------------------------|-----------------------|---------------------|----------------------|
| Wells ----- | \$379,051 04 | | \$31,587 59 |
| Drilling equipment ----- | 70,000 00 | \$17,500 00 | 4,375 00 |
| Gathering lines ----- | 67,337 06 | 13,467 41 | 4,489 14 |
| Compressor station ----- | 401,593 10 | 200,796 55 | 16,733 05 |
| Transmission line ----- | 1,518,876 58 | 293,649 47 | 102,102 26 |
| Intangible ----- | 1,086 45 | | 90 54 |
| Total ----- | \$2,437,944 23 | \$525,413 43 | \$159,377 58 |

In the foregoing table, the depreciation annuity in each case is $8\frac{1}{2}$ per cent of the principal less salvage. No salvage is allowed on the wells. A salvage value of 25 per cent has been estimated for drilling equipment and 20 per cent for the gathering lines. Due to its undoubted value in connection with an artificial gas plant which might be established in the Midway field when the natural gas has become partially or entirely exhausted, we have allowed a salvage of 50 per cent for the compressor. For the transmission main, we have allowed the salvage of $19\frac{1}{2}$ per cent, which is less than the amount estimated by Mr. W. E. Barrett, consulting engineer and assistant general manager of Southern California Gas Company, in his testimony on the hearing in Application No. 202 before this Commission.

The total annual charge allowed for depreciation annuity is \$159,377.58.

10. Royalties.

We shall now refer again to the two contracts entered into on March 1, 1912, between the Southern Pacific Companies on the one hand and the Southern California Gas Company and affiliated parties on the other. The first of these contracts, called the "Exploration Agreement," in effect gives the Southern California Gas Company the exclusive right to enter upon the lands of the Southern Pacific Companies for twenty years and to drill for gas. The gas company agrees to offset at its own expense by means of wells on this land all gas wells drilled on adjacent lands and to keep two strings of tools constantly at work on the land of the Associated Oil Company. The contract contains reciprocal provisions for the turning over at cost to the gas company of gas wells drilled by a Southern Pacific Company and of oil wells drilled by the gas company to the Southern Pacific Company on whose land the well is drilled. The gas company agrees to pay to the Southern Pacific Companies 3 cents per thousand cubic feet for all gas taken by it from their lands, except that 5 cents shall be paid for such gas as may be taken from wells drilled and operated by a Southern Pacific Company for oil but containing gas in conjunction therewith. The 3 cents represents

merely the rental of the land and the value of the gas. The 5 cents includes rental of land and value of gas plus cost of developing the well, which latter amount is here apparently agreed upon by the parties to be 2 cents per thousand cubic feet of gas. All payments made under this contract are made either for rental of land used in drilling wells or for value of the gas actually produced therein or for development of wells—in either case for actual services rendered or commodities supplied.

The other contract of the same date, called the "Supplemental Agreement," is of an entirely different character. This contract provides in effect that in addition to the payments agreed upon in the preceding contracts, the Southern California Gas Company shall pay to the Southern Pacific Companies the further sum of 3 cents per 1,000 cubic feet for all gas delivered into the transmission main from all lands in the field *not owned or controlled* by the Southern Pacific Companies. In other words, if the Southern Pacific Companies should do no work whatsoever in developing gas wells on their lands, and if the gas transmitted into the main should be taken exclusively from other lands, the Southern Pacific Companies would nevertheless receive 3 cents per thousand for each cubic foot thereof. Based on the theoretical carrying capacity of the Midway main, the annual payments or royalties to the Southern Pacific Companies for gas secured from wells drilled on other people's lands would be \$284,700.00. The contract further provides that as long as the payments provided therein are made the Southern California Gas Company shall be relieved of the necessity of offsetting wells bored on lands adjacent to the Southern Pacific Companies lands.

The parties to this contract attempted at the hearing to justify it as follows: the gas company because it was trying as far as possible to secure the control of the entire field and also because of the release of the obligation to drill on the lands of the Southern Pacific Companies to offset wells on adjacent lands, and the Southern Pacific Companies because they claimed that otherwise the gas under their lands would be drained away by wells on adjacent property without any compensation to these companies. We shall now examine each of these contentions.

Whatever may be said for or against the merit of an attempt to secure control of the field is irrelevant here for the reason that the Southern California Gas Company did not succeed in securing such control. Out of the twenty-two wells now producing gas in the Buena Vista Hills field, twelve are owned by the Standard Oil Company, one by the United Oil Company, and two by the Honolulu Company to supply customers other than the Southern California Gas Company. The wells of the Standard Oil Company are in the very heart of the pioneer gas territory and are producing at the present time almost one half of all the gas utilized from this field.

Neither are we impressed with the argument that the release of the obligations to offset wells is of great advantage to the Southern California Gas Company. That company will have to drill additional gas wells from time to time in any event and there seems no good reason why it should not drill them on the Southern Pacific Company lands as offset to other wells, as they have secured specific permission to do under the "Exploration Agreement." It is clear that if the procedure outlined in the "Exploration Agreement" is followed, the Southern California Gas Company will save large sums of money each year as contrasted with the payment of the royalties to the Southern Pacific Companies.

Referring now to the contention of the Southern Pacific Companies, the evidence shows that a gas well in this territory draws gas from some distance in each direction, but how far does not appear. Hence it might follow that a gas well drilled on other land near the boundary of land of the Southern Pacific Companies might drain gas from under that land, but we are of the opinion that the proper remedy of the Southern Pacific Companies in such event would be to offset such well themselves or to call upon the Southern California Gas Company to offset it as provided in the "Exploration Agreement," instead of exacting a payment of 3 cents per thousand cubic feet for all gas produced in the fields even though it be produced on the lands of other persons without drawing any gas from the lands of the Southern Pacific Companies. If such offsetting well is drilled by the Southern California Gas Company, as provided in the "Exploration Agreement," the Southern Pacific Companies will receive, without any expenditure on their part, 3 cents for each thousand cubic feet of gas taken therefrom. On the other hand, if the well is drilled by the Southern Pacific Companies themselves, they may either use it together with other wells to supply a new market, or they may turn it over to the Southern California Gas Company, which company, as provided in the "Exploration Agreement," will be compelled to reimburse the Southern Pacific Companies for their entire expenditure in drilling the well and thereafter to pay 3 cents for each thousand cubic feet of gas taken therefrom. Whatever course is followed, the rights of all the parties will be fully protected.

We find no justification for the payment by Southern California Gas Company to the Southern Pacific Companies of 3 cents or any other sum for gas which the Southern Pacific Companies do not produce and with reference to which they perform no service whatsoever. For gas produced on the lands of the Southern Pacific Companies, the Honolulu Company receives no royalty. Then why should the Southern Pacific Companies receive a royalty for gas drilled without any effort or expense on their part on lands of the Honolulu Company or any other lands which they do not own or control?

The practical effect of the "Supplemental Agreement" is to give the Southern Pacific Companies a royalty of 3 cents for each thousand cubic feet of gas produced at the expense of other parties on the lands of other parties without any expenditure, service or effort whatsoever on the part of the Southern Pacific Companies. We find no justification for imposing the burden of this royalty on the consuming public, as is now being done. In establishing the rate herein, we shall entirely disregard this royalty.

11. Rate of Return.

Referring now to the rate of return to be allowed on the investment in this case, we desire to reaffirm what this Commission said in *City of Palo Alto vs. Palo Alto Gas Company*, Case No. 288, decided on March 12, 1913, and appearing in Volume 2, Opinions of Railroad Commission of California, 300, 316:

"No fixed percentage applicable to all cases and all classes of utilities can be established by this Commission. Each case must be judged on its own merits. The most that can be said by way of general principles is that the return should be at least the average return which is earned by other classes of business of the same degree of hazard in the same community. The Commission in fixing a rate of return must be liberal, lest too strict a policy result in turning capital to other fields of enterprise. California needs development by public utilities, and this Commission's policy should be a broad and liberal one, so as to encourage capital to develop the State by legitimate public utility enterprises where needed. The Commission should be careful not to permit an inflation of prices in ascertaining the value of the property of a public utility used and useful for the public purpose, but should be liberal in establishing the rate of return on that value."

In the present proceeding a number of very unusual elements concur, with the result that the decision herein as to the rate of return can not properly be used as a precedent in other cases. The most important of these elements is the hazard of the enterprise. While the evidence shows far more certainty and much less hazard in this undertaking than has been claimed for it by its promoters, the fact remains that no one absolutely knows the life of the gas field or the extent to which the wells will stand up. Considerable information on these points is already available and within a few years enough additional evidence will be at hand to enable the proper rate fixing authority to make such revision in the rate as may have proven necessary. Again, we shall give consideration to the fact that the consummation of this project has resulted in giving to the people of Los Angeles County a far more efficient gas at rates which will undoubtedly be materially lower than those hitherto paid by them for artificial gas. It appears clearly that the promoters of this enterprise are performing a distinct public service, provided that the rates for natural gas are reasonable. After a careful consideration

of all the evidence bearing on this question, we have concluded that at the present time a rate of return of 10 per cent on the value of the property used and useful for this purpose, as fixed herein, is at least a fair and equitable rate of return.

In establishing this rate of return for the present, we desire to point out that this is only a temporary adjustment and that within a few years this return will undoubtedly be too large. As the investment is repaid to the projectors of this enterprise, year by year, as herein provided in the so-called depreciation annuity, a return of 10 per cent on the entire original investment becomes in reality a return of considerably more on the capital remaining invested from time to time. This fact emphasizes the necessity of a further examination into this question within the next few years. For the present, a return of 10 per cent is certainly just and reasonable.

12. The Rate.

We are now in a position to establish the rate to be paid for natural gas delivered at wholesale at the end of the Midway Gas Company's transmission main in West Glendale. A summary of all the fixed charges and operating expenses in connection with the delivery of this gas at the West Glendale Terminal is as follows:

| Item | Interest at 10 per cent | Depreciation annuity | Total fixed charges | O. and M. expenses | Total charges |
|---|----------------------------|-------------------------|------------------------|-----------------------|---------------------|
| Wells ----- | \$37,905 11 | \$31,587 59 | \$69,492 70 | \$11,371 53 | \$80,864 23 |
| Drilling equipment ----- | 7,000 00 | 4,375 00 | 11,375 00 | 700 00 | 12,075 00 |
| Gathering lines ----- | 6,733 71 | 4,189 14 | 11,222 85 | 4,713 59 | 15,936 44 |
| Transmission main ----- | 151,996 30 | 102,192 80 | 254,189 10 | 60,798 52 | 314,987 62 |
| Compressor station ----- | 40,159 31 | 16,733 05 | 56,892 36 | 25,103 81 | 81,996 17 |
| Total ----- | \$243,794 43 | \$159,377 58 | \$403,172 01 | \$102,687 45 | \$505,859 46 |
| Total charges ----- | | | | | \$505,859 46 |
| General expenses ----- | | | | | 18,214 25 |
| Total charges and expenses ----- | | | | | \$524,073 71 |

To secure the entire cost, the foregoing total must be increased so as to cover the following items:

Losses, 13.3 per cent of all gas received.

Taxes, 4.6 per cent of gross revenue.

Cost of maintaining gas supply apart from rental, 1.48 cents per thousand cubic feet of gas received from wells other than those of the Honolulu Company.

We shall now ascertain the cost of gas delivered at the West Glendale Terminal of the Midway Gas Company's line under each of the following three conditions:

Condition A—Assume that the Southern California Gas Company will deliver an average of 18,000,000 cubic feet of gas per day, all of which is to be purchased from the Honolulu Company.

Condition B—Assume that the Honolulu Company will supply only one half of the gas required and that the Southern California Gas Company will itself acquire or develop the remainder of the daily output of 18,000,000 cubic feet.

Condition C—Assume that all the gas will be derived from lands other than those of the Honolulu Company and that the Southern California Gas Company will pay the cost of field development.

1. Condition A.

We are assuming that the price of 5 cents per thousand cubic feet paid to the Honolulu Company under its contract represents a fair price for the cost of developing that company's gas plus interest on the investment plus payment for the gas itself. In order to secure an average daily delivery of 18,000,000 cubic feet of gas at the West Glendale Terminal and assuming a transmission loss of 10.4 per cent from the lower end of the compressor station to this terminal, it would be necessary to deliver a total of 7,832,589 thousand cubic feet of gas annually out of the compressor station if the gas were all compressed. Assuming further a loss for fuel and other losses of 2.9 per cent in the compressor station, it would be necessary to deliver at the Taft Terminal 7,551,585 thousand cubic feet of gas annually in order to deliver at the West Glendale Terminal an average of 18,000,000 cubic feet of compressed gas per day. Assuming that the total annual charges and expenses for the collection, compression, transmission and delivery of the gas amount to \$524,073.71, as hereinbefore found, that 2.9 per cent of the gas delivered at the Taft Terminal will be consumed or lost in the compressor station and that 10.4 per cent of the compressed gas will be lost in transmission to the West Glendale Terminal and that taxes amount to 4.6 per cent of the gross revenue, the cost for these items would be 8.389 cents per thousand cubic feet delivered at the West Glendale Terminal. This sum includes the cost of operating and maintaining the compressor station, together with interest and depreciation thereon. If the compressor station is operated at all, under this assumption, it will be for the purpose of compressing the gas to a pressure of 450 pounds to the square inch, as provided in the Honolulu Company contract. In that event, the cost of the operation, interest and depreciation should be subtracted from the 5 cents paid to the Honolulu Company. The total annual charge for the compressor station has hereinbefore been estimated to be \$81,996.17. On the basis of a delivery to it of 7,551,585 thousand cubic feet of gas per year and a loss of 2.9 per cent of the gas received and passed, for fuel and other losses, the charge to each cubic foot of gas for compression would be 1.118 cents per thousand cubic feet.

Under this condition, we accordingly have the following result:

CONDITION A.

1. If the Honolulu Company's gas is compressed at the expense of the Southern California Gas Company.

| | |
|---|---|
| Cost of Honolulu gas increased for transmission losses and taxes..... | 5.837 cents per thousand cubic feet |
| Cost of collection, compression, transmission and delivery of gas at West Glendale..... | 8.389 cents per thousand cubic feet |
| Total cost delivered | 14.226 cents per thousand cubic feet |

2. If the cost of compression is deducted from cost of Honolulu Company's gas.

| | |
|--|---|
| Cost of Honolulu gas..... | 5 cents per thousand cubic feet |
| Cost of compression | 1.118 cents per thousand cubic feet |
| Net cost | 3.882 cents per thousand cubic feet |
| Above cost increased for 10.4 per cent additional loss plus 4.6 per cent for taxes | 4.540 cents per thousand cubic feet |
| Cost of collection, compression, transmission and delivery | 8.389 cents per thousand cubic feet |
| Total cost delivered | 12.929 cents per thousand cubic feet |

2. Condition B.

Under the second condition, one half the gas is delivered by the Honolulu Company and the other half by Southern California Gas Company, resulting in an average cost of gas delivered under these circumstances as follows:

| | |
|---|---|
| Cost of one half delivered gas received from Honolulu Company | 5.837 cents per thousand cubic feet |
| Cost of one half gas delivered from other sources on basis of 1.48 cents for field development, 3 cents payment to land owners, 2.9 per cent consumption and loss in compressor, 10.4 per cent in subsequent transmission and 4.6 per cent for taxes..... | 5.42 cents per thousand cubic feet |
| Average cost | 5.6285 cents per thousand cubic feet |

The following result accordingly obtains as to Condition B:

CONDITION B.

| | |
|---|--|
| 1. Average cost of gas..... | 5.6285 cents per thousand cubic feet |
| 2. Cost of collection, compression, transmission and delivery of gas at West Glendale as per Condition A..... | 8.389 cents per thousand cubic feet |
| Total | 14.0175 cents per thousand cubic feet |

If one half cost of compression is charged to Honolulu Company:

| | |
|--|---|
| Cost of Honolulu Company's gas as per Condition A | 4.540 cents per thousand cubic feet |
| Cost of other gas as per Condition B..... | 5.42 cents per thousand cubic feet |
| Average cost | 4.98 cents per thousand cubic feet |
| Cost of collection, compression, transmission and delivery | 8.389 cents per thousand cubic feet |
| 13.369 cents per thousand cubic feet | |

3. Condition C.

Under the third condition, it is presumed that all the gas will be received from sources other than the Honolulu Company's lands. As the latter company is now supplying all the gas needed by the Southern California Gas Company and is preparing to supply the 20,000,000 cubic feet per day provided in the contract for the second year, there is only the slightest possibility that this assumption will ever be realized. The results, however, are given for purposes of comparison.

CONDITION C.

| | |
|--|---|
| Cost of delivered gas received from other sources than Honolulu Company's lands as per Condition B | 5.42 cents per thousand cubic feet |
| Cost of collection, compression, transmission and delivery at West Glendale, as per Conditions A and B | 8.350 cents per thousand cubic feet |
| Total | 13.800 cents per thousand cubic feet |

The condition at present prevailing and which we may reasonably expect to continue, at least to a large extent, is Condition "A."

It will not be necessary in this proceeding to establish a separate rate for gas ultimately used for fuel purposes under the boilers and in the generators of the local gas and electrical companies, nor to pass on the merits of the claim that a low rate should ultimately be established for gas consumed for this purpose. Attention is drawn, however, to the fact that the demands of the inhabitants of Los Angeles County for natural gas for lighting and heating purposes are even now almost sufficient to tax the capacity of the present transmission main if those people are supplied with straight natural gas. The public interest demands that the natural gas shall be put to the most beneficial public use. Whether this gas shall be used for such fuel purposes and if so to what extent is a matter which we leave to the city authorities of the localities in which there may be a demand for such use.

Our function is simply to establish a just and reasonable rate for natural gas at wholesale at the West Glendale terminus of the Midway Gas Company's main. The contract with the Los Angeles Gas and Electric Corporation and the Economic Gas Company specifically provides for delivery at this point. The contracts with the other local distributing companies, which for the time being will be allowed to stand in these respects, all provide a price which starts with the cost of delivery at this point, so that a determination of this cost fixes definitely the price to be paid under each of these contracts.

The price hitherto claimed by Southern California Gas Company as representing the cost of gas delivered at this point has varied from 18 cents per thousand cubic feet for gas ultimately used for domestic consumption to lesser amounts for gas ultimately used under the boilers

and in the generators of the local gas and electric companies, as hereinbefore pointed out. After a careful review of all the evidence in this case, with a desire to do full justice to all parties concerned, we find as a fact that the rates at present being charged by Southern California Gas Company for natural gas delivered at wholesale at the West Glendale terminus of the Midway Gas Company's main are unjust and unreasonable in so far as they differ from the rate herein established, and we further find as a fact that a just and reasonable rate to be charged for natural gas delivered at wholesale by Southern California Gas Company at said point is the sum of 14 cents per thousand cubic feet.

As hereinbefore stated, this adjustment is only temporary. If permitted to continue for more than the first few years, it would result in larger revenues to the Southern California Gas Company than even a most liberal course on the part of the public authorities would justify. For the present, however, we are convinced that this is a just and reasonable rate and that its adoption will show persons desiring to invest moneys in more or less hazardous public utility enterprises in this State, resulting in material benefits to the public, that they may do so in reliance on fair treatment from the public authorities.

We submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the case having been submitted and being now ready for decision and the Commission having made the findings of fact which are contained in the opinion which precedes this order, on which findings the order in this case is based,

It is hereby ordered that Southern California Gas Company be and the same is hereby ordered to establish and file with this Commission, to become effective within thirty (30) days from the date of this order the rate of 14 cents for each one thousand cubic feet of natural gas delivered by said company at the West Glendale terminus of the Midway Gas Company's transmission main.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1146.

OAKLAND, ANTIOCH AND EASTERN RAILWAY
vs.
 NORTHERN ELECTRIC RAILWAY COMPANY.

Case No. 484.

Decided December 20, 1913.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

After listening to argument upon the question of the jurisdiction of this Commission to grant the relief prayed for in the complaint in this proceeding, and the Commission being of the opinion that it does not have jurisdiction to entertain the complaint in its present form,

It is hereby ordered that the complaint in the above-entitled proceeding be, and the same hereby is, dismissed.

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1147.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR LEAVE TO CONTINUE TO CHARGE THE TOLL RATES IN EFFECT ON THE TENTH DAY OF OCTOBER, 1911, UNTIL THE FURTHER ORDER OF THE COMMISSION.

Application No. 2.

IN THE MATTER OF THE RATES, CHARGES, RULES AND REGULATIONS IN CONNECTION WITH THE INTERCHANGE OF TELEPHONE SERVICE OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY WITHIN THE STATE OF CALIFORNIA.

Case No. 407.

Decided December 20, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It appearing that the provisions in paragraph 3 of the order heretofore made in these proceedings on November 14, 1913, that the distance

of 300 miles shall be used as a maximum mileage in computing distances between block centers, contains a clerical error, and that the maximum miles, in computing the distances between block centers was intended to be 350 miles,

It is hereby ordered that paragraph 3 of the order heretofore made in the above-entitled proceedings on November 14, 1913, be, and the same hereby is amended to read as follows:

And it is further ordered that in computing rates in accordance with this order The Pacific Telephone and Telegraph Company shall compute air line distances from post route maps, the method of measurement to be as follows: If the distance between the points involved is 40 miles or less, the actual air line mileage will be scaled from the post route maps. If the distance between the points involved is over 40 miles and not over 350 miles, as indicated by the block centers, the distance between the center of the blocks in which the points are located will be computed mathematically. If the distance between the block centers is over 350 miles, the distance between the centers of the sections in which the points are located will be computed mathematically. The words "block" and "section" as used herein refer to the divisions into which the territory involved will be divided, blocks being seven miles square and sections being thirty-five miles square, containing twenty-five blocks; blocks and squares to be appropriately numbered and designated for convenient listing and publication."

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1148.

THE CITY OF HUNTINGTON BEACH

vs.

WEST COAST GAS, LIGHT AND FUEL COMPANY.

Case No. 481.

Decided December 20, 1913.

Complaint alleging inadequate and inefficient service on the part of defendant supplying gas in Huntington Beach.

Held, Defendant ordered to install, within ninety days, an additional generating unit of not less than 100,000 cubic feet capacity. Defendant also to construct by May, 1915, if conditions warrant, a container of not less than 40,000 cubic feet capacity.

Held, Defendant to conduct tests at stated periods to determine whether the gas is of a specified quality.

R. E. Sackett, for Defendant.

S. M. Davis, for Complainant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is a complaint by the city of Huntington Beach, against the West Coast Gas, Light and Fuel Company, alleging that the service of gas to the citizens of Huntington Beach by said company is inadequate and inefficient, and that the gas is of poor quality.

This company furnishes the citizens of Newport Beach with gas, and Case No. 469, *A. C. Donnan, Jr., et al. vs. West Coast Gas Company*, making a like complaint against the service of this company in Newport Beach, was heard with this case.

Inasmuch as both Newport Beach and Huntington Beach are served from the same generating plant, and that the bad service arises because of the conditions at the generating plant, which affect service in both places, an order in this case will cover the service complained of in both Newport Beach and Huntington Beach.

The evidence shows that from time to time there is a total failure of gas supply extending over a period of several hours, and that at intervals, particularly during the summer months when the population of Huntington Beach and Newport Beach increases very much by reason of the influx of summer guests, there is a partial failure of gas supply.

There was some evidence that the gas produced a bad smell when burned, and that utensils used in cooking with this gas were blackened, but this evidence was not of such a character as to prove that the gas was generally of a poor quality, and while I think means should be taken to test the quality of the gas from time to time, I do not believe the evidence is sufficient to sustain a finding that the gas now being produced is of a poor quality.

The generating plant consists of one oil gas machine, having a capacity of 80,000 to 100,000 cubic feet per day, with the necessary purifying apparatus, boilers and appurtenances, together with a 1400-gallon oil tank and a 10,000 cubic feet single gas holder.

The gas from the holder is passed through a compressor, which raises its pressure from that of the holder to about 5 pounds per square inch into a pressure tank. From the pressure tank it passes through a regulator into the street mains, then through a consumer's regulator to the appliance. The purpose of the regulator at the pressure tank is to maintain a constant pressure on the street main during periods when the compressor is shut down. This is accomplished by raising the pressure in the pressure tank before the shut-down to a point where it will carry the load until the compressor is again started.

The testimony given by several complaining witnesses, and admissions by the company in its formal answers to the complaints, is conclusive

that the present plant is inadequate not only during the summer season, but at any time, and that poor and uncertain service is the result.

That the management was at fault on one occasion was shown by the unchallenged testimony of one witness who stated that the gas was off because the president and manager had forgotten to order a car of oil.

The company replied to the Commission's request for an explanation that the first interruption was due to water in the oil, and the last two due to an accident to the generator.

The fact that there was a sufficient quantity of water in the oil to cause a complete failure of gas, shows that the management is at fault for not exercising proper and adequate supervision over the purity of this most important material.

The failure due to an accident to the generator further demonstrates that the plant is inadequate during seasons of the year other than summer.

The testimony showed that during the height of the season the daily output was nearly seven times the capacity of the holder, which means a reserve capacity, which is entirely inadequate and should be reinforced. This holder should have a capacity of 40,000 cubic feet and would cost approximately \$10,000.00. I believe that even while this expenditure is needed now that the order for its installation could be deferred for one year for the reason that the territory served by this plant is seasonal, and in that respect not a good field, a further reason being that the company is new and not strong financially, and that such a large expenditure at this time might make it necessary for the Commission to raise the rate for gas in order to pay a fair return on the investment.

The defendant's Exhibit No. 1, filed November 17, 1913, shows that the output of this plant is increasing rapidly, and there is no reason to suppose that this increase will not continue. It is necessary, therefore, for this company to provide itself with facilities to care for this future demand.

It was stated at the hearing that the company was considering the advisability of installing a high pressure main from its generating station at Bellflower, and abandoning the Newport plant, and while investigation may prove that this will ultimately be a wise thing to do, it is extremely doubtful if such a large expenditure of money as would be necessary would be justified or possible at this time.

The approximate distance from the nearest point on the Bellflower system to the nearest point on the Newport system is twenty miles and the intervening territory at the present time is not good gas territory for the reason that the land is held in large tracts and is not well settled. The cost of a three-inch line of this length would be in the neighborhood of \$35,000.00.

It was suggested by the company's engineer that an arrangement could be made with the Los Angeles Gas and Electric Company whereby an analysis of the gas could be made from samples submitted, and that the time of taking such samples could be optional with the city officials. This I believe would be satisfactory until such time as the revenue of the company would warrant the establishment of a laboratory of its own.

The recording pressure gauge charts which were submitted show that the installation of the station governor has accomplished the desired result of continuous adequate pressure on the mains at least during the winter months, except in cases of accident or oil shortage.

I submit herewith the following form of order:

ORDER.

Complaint having been made by the city of Huntington Beach against the West Coast Gas Company alleging inadequate, inefficient and poor service of gas to the citizens of said city by said company, and a public hearing having been had on said complaint, and the Commission being fully advised in the premises, it is hereby found as a fact that the service of gas furnished by the West Coast Gas Company to the citizens of Huntington Beach is inadequate and inefficient, and that in order to give adequate and efficient service of gas to said citizens it will be necessary for said company to increase its facilities for producing gas and to add to the efficiency of its system in the further particulars herein-after set out, and basing its order upon the foregoing finding of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that West Coast Gas Company install, and make ready for service within a period of ninety days from the date of this order, an additional generating unit of at least 100,000 cubic feet daily capacity.

That if the delivery of gas from the plant of said company increases during the next twelve months from the date of this order at the same, or a greater, ratio than during the past twelve months, that a holder of not less than 40,000 cubic feet capacity be installed and put in service before May, 1915.

That within a period of thirty days from the date of this order, West Coast Gas Company submit to this Commission for its approval, a plan for the testing of gas for impurities.

That in no case shall gas contain more than thirty grains of sulphur in any form per 100 cubic feet; not more than a trace of sulphurated hydrogen, and shall be free from all other impurities that will blacken or diminish the efficiency of the consumers' appliances.

These tests shall be made at least twice each month and the results of such tests shall be open to public inspection in the office of the company at Newport Beach within five days after the sample has been taken.

That West Coast Gas Company keep on hand at all times an adequate supply of oil and other materials used in the production of gas to permit of the constant and adequate production and supply of gas to the consumers of said company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1149.

A. C. DENMAN, JR., ET AL.

vs.

WEST COAST GAS COMPANY.

Case No. 469.

Decided December 20, 1913.

Cause of complaint being remedied by Commission's decision in Case No. 481.
Complaint dismissed.

R. E. Sackett, for Defendant.

E. H. Branwell, for Complainant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is a complaint by A. C. Denman, Jr., against the West Coast Gas Company, complaining against the service of gas by said company in the city of Newport Beach, in the same particulars as are set out in Case No. 481, the *City of Huntington Beach vs. West Coast Gas Company*.

As the bad service complained of herein was caused by the inadequacy of the generating plant of said company and as an order has this day been made in said Case No. 481 correcting the bad conditions at said generating company, it is unnecessary to make an order in this case. Therefore, I recommend that this case be dismissed, and submit herewith the following form of order:

ORDER.

Complaint having been made by A. C. Denman, Jr., against the West Coast Gas Company, alleging that said company was furnishing an inadequate and inefficient gas service to the citizens of Newport

Beach, and a public hearing having been held thereon, and it appearing to the Commission that the matters complained of herein have been fully covered in the order made in Case No. 481, this complaint is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1150.

D. D. HARLAN ET AL.

vs.

LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY.

Case No. 455.

Decided December 20, 1913.

Complainants allege inadequacy of service and contend that defendant's line is dangerous and unsafe.

Held, Defendant to make application for extension of its franchise, agreeing, if such extension is granted, to apply for permission to issue bonds, proceeds of which shall be used to electrify its road and provide adequate and efficient service.

H. C. Gardiner, for Complainants.

Geo. J. Leovy and *T. M. Leovy*, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

In 1912 a complaint was filed with this Commission complaining of the passenger rates and service on this line, the hearing in which was held in San Diego on June 3d, being Case No. 265. Passenger fares and service of defendant were adjusted at that time and as to the condition of defendant's equipment I quote from the decision in that case:

“Considerable complaint was made concerning defendant's equipment, particularly its rolling stock. The steam motors and passenger cars have been used by defendant and its predecessor since 1888, and compare very unfavorably with the rolling stock of the more progressive steam and electric railroads of the State. The same comment except as to the length of service applies to the two electric cars used on defendant's electric line within the business portion of San Diego. Defendant, in an effort to improve conditions, has within the last few years put on two gasoline motor cars, but they are unreliable and frequently out of repair, so that

passengers often do not arrive at their destination on schedule time. These cars are also frequently crowded to the limit and they seem particularly uncomfortable to persons accustomed to travel on easily moving, commodious electric cars. While I find that defendant's rolling stock is out of date and inadequate to meet the traveling conditions of to-day, I shall not recommend the acquisition of new or additional steam or gasoline equipment, for the reason that in my judgment the money so spent would be largely wasted in view of the very evident need for electrifying the railroad. I think it far wiser to save this money and to use it later to buy electric equipment. In continuing to endure for a while longer the present conditions, the public will have to bear in mind that some forbearance and patience is necessary on their part in order to accomplish the ultimate ends for which both the public and the railway should strive. If, after a year from date no satisfactory improvement in motive power and rolling stock has taken place, application for relief in these respects may again be made to this Commission."

The conditions do not seem to have been improved.

In this case, complaint is made against the services rendered by the Los Angeles and San Diego Beach Railway Company, between La Jolla, Pacific Beach and San Diego. It is claimed that the service is inadequate; that the operation of said railway is unsafe, due to poor and antiquated equipment and defective track and bridges.

It is further alleged that the operation of trains is irregular; that same does not conform to the time-table schedule; and that trains are frequently late and occasionally do not reach their terminals at all.

It is further alleged that the railway company is not complying with the Commission's general order relative to the posting of schedules of trains.

A hearing was held in this matter in the city of San Diego on Wednesday, November 26, 1913, at which time and place all parties at interest were present and gave such testimony as was relevant. Complainants introduced a great deal of evidence tending to show that the operation of trains on this line did not conform to the time-table schedule; that trains were very often late and there were frequent breakdowns which had necessitated passengers coming to San Diego to reach their destination by other means.

Defendant operates this line with steam trains and gasoline motor cars, and the testimony showed that the steam trains were most generally on time; that but few delays occurred greater than five minutes; but that the gasoline motor cars were a source of great annoyance; that there were frequent breakdowns which rendered the service absolutely unreliable and which occasioned great annoyance and inconvenience to the patrons of this line.

Defendant admits that the service rendered is not what it should be and does not claim that same is sufficient and adequate for the demands

upon it. Defendant states that it has industriously endeavored to obtain electric storage battery cars to use on its line of railway to replace its present steam equipment and gasoline motor car equipment, but that after considerable negotiations with two electric storage battery car companies, the matter was dropped, for the reason that the manufacturers could not guarantee the operation of cars built under and to comply with the specifications insisted upon by defendant.

There have been a great many informal complaints entered with this Commission concerning the services afforded by this road, and the company in replying to some of these complaints has submitted to the Commission copies of all correspondence concerning the securing of these storage battery cars, showing that it has endeavored to improve its equipment. After defendant concluded that it was impossible to secure satisfactory storage battery cars, it applied to the common council of the city of San Diego for extensions of its present franchises, and agreed that after the expiration of the present franchises steam trains would not be operated over this line beyond the west line of Pueblo Lot 1797, which is in the eastern portion of Pacific Beach, and that after the expiration of the present franchises all operation beyond that point would be with electric equipment.

The franchises of defendant expire in 1918 and the application for extensions to expire in 1952 was rejected by the common council, for the reason that patrons of this line desire that it be immediately electrified, and no assurance was given by defendant that if the franchises were granted the electrification would occur before the expiration of the present franchises.

Defendant stated that it was its intention to apply to this Commission for authority to issue bonds for the electrification of its line of railway immediately after the franchises had been granted, but that it did not deem it possible to market bonds with the present franchises which expire in 1918, and that the rights which were granted under said franchises were of too short duration to make it possible to sell the bonds.

The General Electric Company and the Westinghouse Electrical Manufacturing Company have made estimates as to the cost of electrifying the line and the amount of the estimate is approximately \$300,000.00.

It appears from the testimony that defendant desires an extension of its franchises containing conditions which will permit it to use either steam or electricity as motive power and that the patrons of the road desire electricity only to be used as motive power, and that the common council of San Diego declined to grant defendant franchises under the conditions prayed for.

Mr. D. K. Adams, president of the common council of the city of San Diego, appeared at the hearing and gave testimony. From his

testimony, it would seem that the council would be disposed to grant defendant a renewal of its franchises upon the conditions mentioned above as to the limit of the operation of steam trains and would be reasonable in the matter of the time for electrifying the road.

Mr. Adams testified that he had himself suggested to defendant that it take a steam franchise to a point near the mouth of Rose Cañon and from that point on into La Jolla take a franchise to be operated by electricity. All that the council desired was a definite understanding as to when the road would be electrified, and when the present financial condition was called to Mr. Adams' attention by the Commission, he stated that he believed the council would be perfectly fair and not exact anything that was not just.

I believe and find as a fact that defendant should apply to the common council of the city of San Diego for a renewal of its franchises, and endeavor to agree with the council as to the limits of the operation of steam trains and the time of electrifying the road.

I shall not consider the general allegations as to the service and the condition of the road. Considerable testimony was introduced by complainants to show that the road, particularly some of the bridges thereon, was in dangerous condition.

The Commission's engineering department has made two or three investigations and inspections of this road in the past six months, owing to the frequent informal complaints, and from its reports to this Commission I am of the opinion that the operation is not as dangerous as complainants' testimony and the complaining letters received would indicate.

The track throughout, with the exception of about three miles, is laid with 60-pound rail, with an average of twenty ties to the rail. The three miles noted as an exception are laid with 40-pound rail having approximately the same number of ties to the rail. For operation with equipment of the weight that is now being used, and for the speed at which the cars travel, our engineers and service inspectors do not regard this track as specially dangerous, but assert that it would be for materially heavier equipment or greater speed. The track throughout is unballasted, but the soil is mostly a sandy loam and very favorable to proper maintenance of roadbed.

The Commission's service inspector also investigated the condition of certain bridges which had been complained of and concerning which testimony was given at the hearing. Two bridges were found which could not be considered in first-class condition. This was brought to the attention of defendant, and it was promised that one bridge would be renewed in its entirety and the other repaired to such extent as to make it safe.

Concerning the allegations, therefore, as to the dangerous condition of the road of defendant, I believe and find as a fact that, for present operations with present equipment, the road is not particularly dangerous, and that such danger as does exist will be partially removed by the repairs to one bridge and the rebuilding of another, as indicated above.

I shall next consider the allegation that the operation of trains is irregular and does not conform to the time-table schedule in that trains are frequently late, and at times do not reach their terminal at all.

These allegations are supported by uncontroverted testimony and were practically admitted by defendant, although the testimony of defendant was to the effect that delays were usually very brief, and that trains were sometimes held beyond their starting time to accommodate patrons of the theatre.

I believe and find as a fact that this allegation as to the operation of trains has been proven, and that defendant should endeavor to operate its trains on the time-table schedule.

Next, as to the allegation that the railway is not complying with the Commission's order relative to the posting of schedules of trains: Defendant testified that it posts in its station at La Jolla and at San Diego, in conformity with the Commission's general order, bulletin boards which show the schedule of trains and the time of arrival, should the train be delayed; that at intermediate stations it is not possible to do this, for the reason that there is no necessity for the maintenance of intermediate telegraph stations, and, consequently, information as to whether trains are late or not can not be posted at intermediate stations.

I believe and find as a fact that defendant is doing its best to comply with the Commission's General Order No. 31.

With reference to defendant's testimony that it intended, if successful in renewing its franchises, to apply to the Commission for authority to issue bonds for the electrification of its line, although that matter was only before the Commission incidentally, the Commission took occasion to make some investigation as to the probable ability of defendant to pay bond interest from the operation of this road on an amount sufficient to electrify the road.

From the testimony introduced at this hearing in relation to this matter, I am of the opinion that the operation of defendant's road would easily pay interest at ordinary rates on an issue of bonds sufficient to electrify the road.

As to the reasonableness and adequacy of the service afforded by defendant: I am of the opinion, and find as a fact, that the service is not reasonable nor adequate, and that the road should be electrified and

the service improved by the use of better equipment, as set forth in the order following this opinion. I submit the following order:

ORDER.

This case being at issue on complaint and answer filed, and a hearing having been duly held, and an investigation into the matters and things involved having been made,

It is hereby ordered (1) that defendant shall, within thirty days after service upon it of this order, make application to the common council of the city of San Diego for an extension of its franchises, and shall assure said common council that if the franchises are granted the following provisions of this order will be observed:

(2) Within thirty days after the awarding of the extension of said franchises to defendant, said defendant shall make application to this Commission in proper form for the authorization of a bond issue, the proceeds of which shall be used to electrify its line of railway between La Jolla and San Diego and improve its track structure and roadbed.

(3) Within one year after the authorization of said bond issue by this Commission, defendant shall have electrified its line between San Diego and La Jolla and operate electric cars over the same with such frequency as shall afford the patrons of defendant a reasonable and adequate service, and this Commission will recognize any arrangement that is made between defendant and the common council of the city of San Diego by franchise or otherwise relative to the operation of trains over the lines of defendant by steam power.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1151.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS OF THE FACE VALUE OF SIX HUNDRED AND THIRTY-NINE THOUSAND DOLLARS.

Application No. 590.

Decided December 20, 1913.

Supplemental order authorizing applicant to issue additional bonds of the face value of \$22,000.00, covering capital expenditures made during the month of November, 1913.

REPORT OF THE COMMISSION.

SIXTH SUPPLEMENTAL OPINION.

THELEN, *Commissioner*.

This is a supplemental application for authority to issue bonds of the face value of \$22,000.00.

On June 30, 1913, this Commission rendered its opinion and order in the above entitled proceeding, authorizing applicant to issue certain bonds, including bonds of the face value of \$459,000.00, on expenditures to be incurred during the year 1913. The present supplemental application is filed for the purpose of securing this Commission's authorization for the issue of \$22,000.00, face value, of said bonds for capital expenditures incurred during the month of November, 1913.

A summary of the estimated expenditures during the year 1913, subsequent to October 31, 1913, and of the actual expenditures in November, 1913, and of the balance to be expended is attached to the application and reads as follows:

Summary.

| | Balance to be expended as of October, 31, 1913 | Expenditures in November, 1913 | Balance to be expended |
|--|--|-----------------------------------|---------------------------|
| 1. Steam power plant equipment..... | \$45,882 11 | \$396 88 | \$45,485 23 |
| 2. Electric distribution system..... | 47,095 92 | 15,205 64 | 31,890 28 |
| 3. Gas plant buildings and general structures | 827 82 | 595 90 | 231 92 |
| 4. Gas generators | 13,879 08 | 915 27 | 14,794 35 |
| 5. Purification appliances | 9,803 06 | 2,765 50 | 7,037 56 |
| 6. Water gas sets and accessories..... | 7,000 00 | ----- | 7,000 00 |
| 7. Accessory equipment at works..... | 16,328 92 | 2,978 06 | 19,306 98 |
| 8. Gas distribution | 141,827 13 | 3,850 10 | 137,977 03 |
| 9. Gas services | 33,276 62 | 3,301 28 | 29,975 34 |
| 10. Gas meters | 283 30 | 1,250 55 | 1,533 85 |
| 11. Miscellaneous distribution equip- ment | 9,327 51 | 90 65 | 9,236 86 |
| 12. General structures | 515 79 | 79 09 | 436 70 |
| 13. General shop equipment..... | 3,324 41 | 219 27 | 3,105 14 |
| 14. Contingencies | 195 37 | 101 15 | 94 22 |
| | \$296,342 60 | \$29,918 80 | \$266,423 80 |

Under the provisions of applicant's trust deed or mortgage, it is entitled to receive from the trustee, bonds of the face value of 75 per cent of proper capital expenditures. It is evident that the amount of bonds for which this Commission's authority is now requested, being bonds of the face value of \$22,000.00, is less than 75 per cent of the capital expenditures during the month of November, 1913.

I find that the purposes for which expenditures were incurred during the month of November, 1913, come within the general purposes specified in this Commission's opinion and order dated June 30, 1913, with the exception of certain items as to which the amounts expended have run

over the estimates. In these cases, however, the amounts expended are for proper capital purposes and the expenditures should be allowed.

Applicant alleges that it expects to be able to sell its bonds for not less than 85 per cent of their face value.

I recommend that this supplemental application be granted and submit herewith the following form of order:

SIXTH SUPPLEMENTAL ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for the consent of the Commission to the issuance of bonds by said company of the face value of twenty-two thousand dollars (\$22,000), said bonds to be included within the general authorization heretofore given by this Commission's order in the above entitled proceeding, dated June 30, 1913, said bonds to be payable on the first day of March, 1939, and to bear interest at the rate of five (5) per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all the property of the company; and the Commission finding that the moneys to be procured by the issue of said bonds are necessary to and reasonably required by said company for the discharge and refunding of obligations heretofore incurred for proper capital expenditures, and that said purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by San Diego Consolidated Gas and Electric Company of twenty-two thousand dollars (\$22,000), face value, of bonds of said company, bearing numbers 4038 to 4059, inclusive, maturing the first day of March, 1939, redeemable on March 1, 1914, or on any interest date thereafter at par accrued interest and a premium of five (5) per cent on the principal thereof, and to bear interest at five (5) per cent per annum, payable semiannually, under and in pursuance of the terms of the deed of trust or mortgage heretofore and on the first day of March, 1909, made and executed by said San Diego Consolidated Gas and Electric Company to Harris Trust and Savings Bank and Los Angeles Trust Company, now known as the Los Angeles Trust and Savings Bank, as trustees, upon the conditions following and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said bonds hereby authorized so as to net said company not less than eighty-five (85) per cent of the face value of the principal thereof, besides interest accrued thereon.

2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds only for the purpose of discharging and refunding indebtedness incurred for capital expenditures made during the month of November, 1913, as those expenditures are set out in the opinion which precedes this order.

3. San Diego Consolidated Gas and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. San Diego Consolidated Gas and Electric Company shall file with this Commission certified copies of the statements or certificates to be filed by it with the trustees under its said trust deed, on which statements or certificates it expects to receive from the trustees the bonds hereby authorized to be issued.

5. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the 31st day of January, 1914.

The foregoing sixth supplemental opinion and order are hereby approved and ordered filed as the sixth supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1152.

IN THE MATTER OF THE APPLICATION OF ANGELS' FLIGHT
RAILWAY COMPANY TO PURCHASE ANGELS' FLIGHT
RAILWAY IN THE CITY OF LOS ANGELES AND TO ISSUE
CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED
THOUSAND DOLLARS.

Application No. 306.

Decided December 20, 1913.

Supplemental order authorizing applicant to issue \$25,000.00 par value of stock in lieu of bonds heretofore authorized.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION.

EDGERTON, *Commissioner*.

An order was heretofore made herein on the 25th day of April, 1913, authorizing J. W. Eddy to sell a certain incline railroad located in the city of Los Angeles, known as "Angels' Flight Railway," to Angels'

Flight Railway Company, and authorizing said last named company to issue certain stocks and bonds in payment therefor.

Subsequent to the date of said order, applicant abandoned its purpose of issuing bonds and applied to this Commission for a modification of said order eliminating the authorization for the issuance of bonds, and requesting authorization for the issuance of \$100,000.00 par value of capital stock in payment for said railway property.

Thereupon said order was cancelled and annulled and said application was set down for a hearing. This hearing was had and no additional evidence was introduced by applicant, but the request was made that as large an amount of stock be authorized as the Commission considered proper. It was frankly admitted by representatives of applicant at this hearing that all of the stock to be issued would go to the Funding Company of California in exchange for said railway property, and that it was not the purpose of said Funding Company to sell said stock.

It, therefore, appears that at this time the purposes of applicant would be as well served by the issuance of a conservative amount of capital stock as by a larger issue, and therefore, I recommend that applicant be authorized to issue \$25,000.00 par value of its capital stock in exchange for said railway property, it being understood that this price is no accurate measure of the value of this property and that applicant may hereafter upon a proper showing make application for issuance of additional stock or bonds.

I submit herewith the following form of order :

SUPPLEMENTAL ORDER.

Application having been made by Angels' Flight Railway Company for an order authorizing it to issue \$100,000.00 par value of its capital stock in exchange for that certain railway property known as "Angels' Flight," and for an order authorizing J. W. Eddy or Funding Company of California to sell said property to said Angels' Flight Railway Company, and a hearing having been held and it appearing to the Commission that said application should be granted in part,

It is hereby ordered by the Railroad Commission of the State of California that J. W. Eddy, or Funding Company of California, or the assigns of either, be and they are hereby authorized to sell and convey to Angels' Flight Railway Company that certain incline railway property located in the city of Los Angeles known as "Angels' Flight," in consideration of 25,000 shares of the capital stock of said Angels' Flight Railway Company.

Said Angels' Flight Railway Company is hereby authorized to issue \$25,000.00 par value of its capital stock, said stock to be exchanged for that certain railway property situated in the city of Los Angeles, known as "Angels' Flight" and to be transferred to said Angels' Flight Railway Company free of encumbrances.

As a condition precedent to the effectiveness of this order, said Angels' Flight Railway Company shall submit for the approval of this Commission a conveyance setting out in detail the property to be transferred under the authority of this order, and which property is generally known as "Angels' Flight."

The rights and privileges granted by this order shall be exercised within a period of six months from the date hereof, and if not exercised within such time, such rights and privileges shall cease and this order will thereupon become void.

Immediately upon acquiring the aforesaid property and issuing the stock hereby authorized, report of such acquirement and such issue shall be made to this Commission.

The foregoing second supplemental opinion and order are hereby approved and ordered filed as the second supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of December, 1913.

DECISION No. 1153.

E. F. SAWDEY ET AL.

vs.

YOSEMITE POWER COMPANY.

Case No. 456.

Decided December 20, 1913.

Held, Only four out of the twenty-eight signers of the complaint are in position to take service from defendant company.

Held, Defendant company ordered to install service connections and transformers at its own expense and serve any of these four complainants who shall guarantee payment of a monthly minimum charge of \$3.00.

Wickizer & Wickizer, for Complainants.

Lilienthal, McKinsty & Raymond and Albert Raymond, for Defendants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this case the Commission is requested to make an order compelling defendant company to furnish electric service to the premises owned or occupied by complainants and that defendant also be requested to provide at its own cost and expense all transformers and other equipment necessary to such service. The complaint filed on August 27, 1913, alleges in effect that defendant is a public utility corporation

engaged in the business of supplying electric energy in the territory in which complainants reside; that defendant has refused and does refuse to supply electric energy for lighting and power purposes, unless complainants pay for the transformers which are necessary in connection with such service; and that the rates charged by defendant are exorbitant.

The signers of the complaint are E. F. Sawdey, D. Baldwin, W. S. Matthew, F. M. Hudelson, J. Hunter, M. R. Silva, M. P. Basito, G. H. Cross, A. J. Vieira, T. C. Robinson, Frank Gehring, A. J. Serpa, E. O. Warner, G. K. Bingham, M. E. Taylor, W. S. Watson, John Foit, V. D. Whitmore for C. N. Whitmore Company, J. U. Gartin, A. W. Richards, Wm. Leish, J. C. Eltenger, J. S. Arvilla, H. W. Low for Hughson Condensed Milk Company, Joe Gonzales, B. F. Conner and R. P. Davison.

Defendant's answer filed on September 26, 1913, denies in effect that it has or does refuse to supply electric service and denies that its rates for such service are exorbitant but admits that it has refused to supply electric energy for lighting or power purposes to complainants unless and until such complainants have purchased their own transformers. In justification of its action in requiring complainants to pay for the transformers necessary in connection with the serving of electric energy defendant alleges that such regulation is reasonable because of the fact that the revenue to be derived from service connections with complainants' premises would not be sufficient to otherwise justify the cost of service.

The case was set for hearing at Hughson on October 29, 1913, but on October 20th a representative of the Commission's Rate Department called on defendant and it was tentatively agreed that defendant would enter into negotiations with complainants with a view to satisfying the complaint without the necessity for a formal hearing. On October 27th at an informal conference between complainants, representatives of the defendant company and a representative of the Commission's Rate Department, it was decided that a request would be made for a continuance of the case pending informal negotiations between the parties to this proceeding. Accordingly, on October 28th, at the request of the complainants' attorneys, the case was reset to November 28, 1913. It appears that negotiations intended to effect a compromise between complainants and defendant company came abruptly to an end on or about November 13, 1913, by reason of defendant's action in refusing to agree to terms of a stipulation drawn by attorneys for plaintiffs. This stipulation provided in effect that defendant company would agree to serve at its own cost and expense any two or more customers who could be served from one transformer at any point on defendant's lines extend-

ing from Hughson substation, providing the distance from the transformer in any case should not exceed thirteen hundred (1300) feet to the point of delivery. The stipulation further provided that defendant should agree to adopt and maintain rates similar to those charged by the Sierra and San Francisco Power Company in adjoining territory or in the event that defendant should fail to meet such rates that it would consent to the Sierra and San Francisco Power Company entering and serving the territory now served by defendant.

At the hearing complainants' attorneys withdraw the allegation of exorbitant rates set forth in Paragraph V of the complaint so that the only matter before the Commission is the question as to the reasonableness of defendant's rules and regulations which under certain conditions require the consumer to pay for the cost of transformers necessary to furnish electric energy for power and lighting service.

Of the twenty-eight signers of the complaint the name of M. C. Quimby was stricken off when the complaint was filed with the Commission, and it developed at the hearing that of the remaining twenty-seven signers three wanted their names stricken off the complaint, two have sold out and moved away, two have installed acetylene or gasoline lighting plants, eight do not want power or lights, two are uncertain or unknown, six are at present receiving service and the remaining four are willing to take service, providing they are not required to furnish the necessary transformers. It is evident from the facts as stated above that, at the time of the hearing at least, more than 85 per cent of the signers of the complaint did not desire or were not in a position to receive electric service from defendant company, and in view of this condition, whatever may have been the intention of complainants as to receiving service at the time when the complaint was filed with this Commission, it does not appear at this time that there exists sufficient demand for electric service along the Hughson-Ceres county road to warrant the issuance of an order requiring defendant company to make service connections generally under conditions set forth in the complaint.

The defendant company has stated that it would be willing to supply service and furnish transformers and other facilities at its own expense in cases where three or more consumers could be supplied from one transformer and where the distance from said transformer to the point of delivery does not exceed one thousand (1000) feet. Considering the particular service connections which would be necessary to serve complainants E. F. Sawdey, M. R. Silva, A. J. Vieira and A. W. Richards. While it does not appear that defendant company should be

required to provide, at its own expense, the necessary transformers in addition to the necessary lines, services and meters, under the reduced schedule of rates which defendant company has voluntarily put into effect throughout the territory involved in this case, I am of the opinion that, if any one or more of the four complainants named desire electric service for lighting or small motors of less than three horsepower capacity, and if said complainants are willing to guarantee a minimum monthly payment of \$3.00 for each service extension, the defendant company should be required to make service connection entirely at its own cost and expense. If, upon demand, and in absence of a general ruling by the Commission on the subject, defendant company refuses to serve upon reasonable terms any prospective consumer, the recourse of the applicant for such service, which has been refused, is obviously an appeal to this Commission for a ruling in each case.

In view of all the circumstances surrounding this case it does not appear that the Commission should at this time require the defendant company to supply transformers except as hereinbefore provided and I therefore recommend the following form of order:

ORDER.

E. F. Sawdey and other ranchers and farmers residing along the Hughson-Ceres county road in Stanislaus County having complained to this Commission against the rates charged and certain rules and practices adopted and enforced by Yosemite Power Company, a corporation; and a public hearing having been duly held at which the allegation of exorbitant rates set forth in the complaint was withdrawn by complainants; and it appearing that there is not sufficient demand for electric service along said Hughson-Ceres county road to warrant the issuance of an order requiring defendant company to make service connections with the premises of any applicant, and entirely at its own cost and expense, under the schedule of reduced rates which defendant company has voluntarily put into effect in this territory; and it further appearing that, under certain conditions, defendant company should be required to extend its lines and wires at its own cost and expense and provide all necessary transformers, services and meters required to supply electric service to complainants E. F. Sawdey, M. R. Silva, A. J. Vieira and A. W. Richards who at this time desire to use electric energy for lighting or power purposes,

It is hereby ordered that Yosemite Power Company be and the same is hereby ordered and directed to extend its lines and wires and provide all necessary transformers, service connections, meters and other facilities required to supply and deliver electric energy to the premises

owned or occupied at the present time by E. F. Sawdey, M. R. Silva, A. J. Vieira and A. W. Richards, said premises being located along and near the Hughson-Ceres county road in the county of Stanislaus, on condition that each or any of the above named complainants desiring service shall first enter into a written agreement to pay to defendant a minimum monthly sum of not less than three dollars (\$3.00) and for all electric energy consumed at the regular rates for such service.

And it is further ordered that if any apparently unreasonable delays be incurred in the execution of this order, the above named complainants or either of them may make further representations to this Commission.

And it is further ordered that the complaint in this proceeding, in all particulars except only as in this order otherwise provided, be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of December, 1913.

Decisions Nos. 1154, 1155, 1156 and 1157, grade crossings; not printed.
See end of volume.

DECISION No. 1158.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AUTHORITY TO ISSUE BONDS AND TO PURCHASE THE PROPERTIES OF MIDLAND COUNTIES GAS AND ELECTRIC COMPANY, PASO ROBLES LIGHT AND WATER COMPANY AND RUSSEL-ROBISON WATER AND ELECTRIC COMPANY; AND OF MIDLAND COUNTIES GAS AND ELECTRIC COMPANY, PASO ROBLES LIGHT AND WATER COMPANY AND RUSSEL-ROBISON WATER AND ELECTRIC COMPANY TO SELL THE SAME.

Application No. 742.

Decided December 22, 1913.

Supplemental order authorizing applicant to issue additional bonds of the face value of \$79,000.00.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner*.

This Commission having issued its order in the above entitled matter on September 24, 1913, authorizing Midland Counties Public Service Corporation to issue \$1,159,000.00 of its first and refunding 6 per cent forty-year bonds, bearing date of October 1, 1913, and maturing October 1, 1953;

And it being provided in said order that \$338,000.00 of said bonds should be issued only upon a supplemental order from this Commission; and Midland Counties Public Service Corporation having now applied to this Commission for authority to issue \$79,000.00 of said \$338,000.00 of bonds;

And it appearing to this Commission that said application should be granted upon certain specified conditions;

It is hereby ordered that Midland Counties Public Service Corporation be given authority to issue \$79,000.00 of its first and refunding 6 per cent forty-year bonds bearing date of October 1, 1913, and maturing October 1, 1953, said bonds to be issued upon the following conditions and not otherwise:

1. All the conditions set out in the decision of this Commission of September 24, 1913, in the above entitled matter shall apply to the \$79,000.00 of bonds herein authorized.

2. Midland Counties Public Service Corporation shall create a special fund to be known as "bond amortization fund" and shall pay into said fund during the year 1914 the sum of \$9,000.00 and during each of the next seven years the sum of \$10,000.00. Said payments shall be made by the company's stockholders, or from the company's earnings, after any sum which may be required for depreciation shall have been set aside. The moneys accumulating in said "bond amortization fund" may be used at the discretion of the applicant for additions and betterments to its plant or system, but if so used shall not be made the basis of an application for an issue of stocks, bonds or notes.

3. The applicant herein shall report to this Commission at the end of each year the amount of moneys paid into said fund, the source of such payments and the use of the moneys in said fund.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of December, 1913.

DECISION No. 1159.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AUTHORITY TO ISSUE SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS OF PREFERRED STOCK.

Application No. 568.

Decided December 22, 1913.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

LOVELAND, *Commissioner.*

On May 22, 1913, this Commission issued its order in the above entitled matter authorizing Southern California Gas Company to issue \$750,000.00 of its preferred stock. Said order specified the purposes to which the proceeds to be derived from the sale of this stock should be devoted. The applicant now asks for authority to deflect a portion of the proceeds from the sale of this stock to the payment of \$69,479.53 due the Pacific Light and Power Corporation for money advanced and used for capital construction purposes. -

The data submitted by the applicant established that the money thus received was used for making additions and betterments to its plant or system.

Accordingly it is hereby ordered that Southern California Gas Company be given authority to use the sum of \$69,479.53, received from the sale of its preferred stock as authorized by this Commission in its order of May 22, 1913, for the purpose of paying its indebtedness to Pacific Light and Power Corporation. Such conditions as appear in this Commission's order of May 22, 1913, in the matter herein as are not in conflict with this supplemental order shall apply to such authority as is herein granted.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of December, 1913.

DECISION No. 1160.

IN THE MATTER OF THE APPLICATION OF TULARE
COUNTY POWER COMPANY FOR AUTHORITY TO ISSUE
EIGHTY THOUSAND DOLLARS OF STOCK.

Application No. 862.

Decided December 22, 1913.

Applicant authorized to issue stock of the par value of \$80,000.00, to be sold at par, proceeds to be used for extensions and betterments to plant.

C. E. Bush, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by Tulare County Power Company for authority to issue 800 shares of its consumers' stock of the par value of \$100.00 per share.

It is proposed by the applicant to sell the stock at par and to devote the proceeds, in so far as they shall apply, to the following purposes:

| | |
|-----------------------------------|-------------|
| Steam plant additions..... | \$10,250 00 |
| Earlimart distribution lines..... | 26,320 00 |
| Tulare distribution system..... | 17,000 00 |
| Lindsay distribution system..... | 13,300 00 |
| Exeter distribution system..... | 14,000 00 |
| General line extensions..... | 10,500 00 |
| Total | \$91,370 00 |

The applicant is engaged in selling electric power in Tulare County and its field of operation and financial condition have been reviewed at length in previous decisions of this Commission.

In the Commission's decision upon Application No. 81, Tulare County Power Company was given authority to enter the cities of Lindsay, Exeter and Tulare. It now asks for authority to build distribution systems in those cities in the sums stated above.

The applicant proposes to extend its line into the Earlimart district of Tulare County where it is anticipated that a great deal of new business may be attached to its lines. In this connection, also, the company proposes to expend \$10,500.00 in general extensions or feeders to get such new business as is offered. Additions and betterments to the company's steam plant are required in a sum to cost \$10,250.00.

The applicant has submitted as Exhibit "B," in connection with the application herein, a detailed statement of its proposed expenditures.

The applicant has submitted to the Commission an estimate to the effect that the proposed extensions and additions will increase its gross revenue by \$48,220.00 and its net revenue by the sum of \$26,620.00 per year.

The consumers' stock which Tulare County Power Company proposes to issue carries with it the privilege of purchasing a fixed amount of power from the corporation at cost.

I find that the sums which the applicant herein proposes to expend are reasonably required for the purposes set out.

I find that the extensions and additions which it proposes to make to its plant are reasonably required in the conduct of its business.

I find, further, that the expenditures to be made are not chargeable to operating expenses or to income.

I recommend, therefore, that the application be granted, and submit the following form of order:

ORDER.

Tulare County Power Company having applied to this Commission for authority to sell 800 shares of its consumers' stock at the par value of \$100.00 per share, and to apply the proceeds to be derived therefrom for extensions, additions and betterments, as set forth in the opinion above; and a hearing having been held, and it appearing that the money is reasonably required for the purposes named; and it appearing also that the extensions and betterments will greatly increase the applicant's revenue; and it appearing, further, that the expenditures which the applicant proposes to make are not reasonably chargeable to operating expenses or to income;

It is hereby ordered that Tulare County Power Company be given authority, and it is hereby given authority, to sell 800 shares of its consumers' stock of the par value of \$100.00 per share, said stock to be sold upon the following conditions and not otherwise:

(1) Said stock shall be sold so as to net applicant the par value thereof.

(2) The money derived from the sale of said stock shall be applied upon the following:

| | |
|---|--------------------|
| (a) Steam plant additions, as set forth in applicant's Exhibit "B" ----- | \$10,250 00 |
| (b) Earlimart distribution lines, as set forth in applicant's Exhibit "B" ----- | 26,320 00 |
| (c) Tulare distribution system, as set forth in applicant's Exhibit "B" ----- | 17,000 00 |
| (d) Lindsay distribution system, as set forth in applicant's Exhibit "B" ----- | 13,300 00 |
| (e) Exeter distribution system, as set forth in applicant's Exhibit "B" ----- | 14,000 00 |
| (f) General line extensions, as set forth in applicant's Exhibit "B" ----- | 10,500 00 |
| Total ----- | \$91,370 00 |

(3) Tulare County Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the consumers' stock hereby authorized to be

issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said consumers' stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority hereby given to issue such consumers' stock shall apply only to consumers' stock issued by Tulare County Power Company on or before the thirtieth day of June, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of December, 1913.

DECISION No. 1161.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY CONSOLIDATED FOR AUTHORITY TO ISSUE PROMISSORY NOTES IN THE SUM OF TWELVE THOUSAND DOLLARS.

Application No. 872.

Decided December 23, 1913.

Applicant authorized to issue promissory notes in the sum of \$12,000.00, said notes to be used to refund notes in a like amount now outstanding

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Northern California Power Company Consolidated having made application to this Commission for authority to issue a promissory note to T. B. Armstrong for \$2,000.00, with interest at 6 per cent, to be dated December 6, 1913, and payable December 6, 1914, to refund a note to said T. B. Armstrong in like amount; and for authority to issue a note to the Bank of Tehama County in the sum of \$10,000.00, with interest at 6 per cent, to be dated December 6, 1913, and payable one day after date, to refund three notes to said Bank of Tehama County now due in the sums, respectively, of \$5,000.00, \$3,000.00, and \$2,000.00; and a hearing having been held, and it appearing that the purposes for which said notes are to be issued are proper purposes, as defined in the Public Utilities Act,

It is hereby ordered that Northern California Power Company, Consolidated, be given authority, and it is hereby given authority, to issue its promissory notes as follows:

(1) One note to T. B. Armstrong, in the sum of \$2,000.00, with interest at 6 per cent, said note to be dated December 6, 1913, and to be payable December 6, 1914.

(2) One note to the Bank of Tehama County, in the sum of \$10,000.00, with interest at 6 per cent, to be dated December 6, 1913, and to be made payable one day after date.

Said notes shall be issued upon the following conditions and not otherwise:

(1) The notes herein authorized shall be used to refund the following notes of the Northern California Power Company, Consolidated:

(a) Note to T. B. Armstrong, dated October 1, 1908, interest at 6 per cent, \$2,000.00.

(b) Note to Bank of Tehama County, dated January 26, 1910, interest at 6 per cent, \$5,000.00.

(c) Note to Bank of Tehama County, dated December 29, 1910, interest at 6 per cent, \$3,000.00.

(d) Note to Bank of Tehama County, dated February 23, 1912, interest at 6 per cent, \$2,000.00.

(2) Northern California Power Company shall, within thirty days, report to this Commission such notes as it shall have issued under the authorization herein granted.

(3) The authority herein given to issue promissory notes shall apply only to promissory notes which shall have been issued on or before January 30, 1914.

(4) The authority herein granted shall become effective only after the applicant shall have paid such fee as may be required under the Public Utilities Act.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of December, 1913.

DECISION No. 1162.

J. J. CHAPPELL

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 463.

Decided December 23, 1913.

Complainant alleges excessive rates for cotton and cotton linters on lines of defendant from Imperial Valley points to Los Angeles, San Pedro, San Francisco, Oakland, and East Oakland.

Held, That defendant's rate of 65 cents per 100 pounds minimum carload of 16,000 pounds between Imperial Valley points and Los Angeles and San Pedro is excessive. Defendant ordered to publish and file within twenty days a rate of 40 cents per 100 pounds minimum carload of 20,000 pounds between these points.

Held, Complaint as to rates between Imperial Valley points and San Francisco, Oakland, and East Oakland, dismissed.

J. J. Chappell, in propria persona.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

The complainant in this case representing land owners and farmers of the Imperial Valley attacked as unreasonable rates of the defendant for the transportation of cotton, cotton linters, cotton-seed oil, cotton-seed meal, cake and hulls from Imperial Valley points to Los Angeles, San Pedro, San Francisco, Oakland, and East Oakland as excessive and unreasonable.

At the hearing complaint was amended, striking out all reference to cotton-seed oil, cotton-seed meal, cake and hulls, leaving in issue only the rates on cotton and cotton linters.

The complaint is based upon a comparison of the rates on cotton and cotton linters from Imperial Valley points to Los Angeles, San Pedro, San Francisco, Oakland, and East Oakland with a rate of 95 cents per 100 pounds applying from Texas, Oklahoma and Gulf points to Pacific coast points.

The present rate on cotton and cotton linters in carloads, minimum weight 16,000 pounds, from Imperial Valley points to San Francisco, Oakland, and East Oakland is 65 cents per 100 pounds. A similar rate is in effect from Glamis to these points, and, in addition thereto, a rate of 62 cents per 100 pounds to San Pedro and 50 cents per 100 pounds to Los Angeles.

Complainant at the hearing relied upon certain comparisons of rates and made the statement that the Imperial Valley would produce 100,000 bales instead of 20,000 bales, the present production, if rates were reduced. The main contention of the complainant seems to be that if the defendant and its connecting carriers can transport cotton from Texas and Oklahoma points to San Francisco for 95 cents per 100 pounds, the present rates from Imperial Valley to San Francisco, Oakland, East Oakland, San Pedro, and Los Angeles are excessive—the distance from El Centro, Imperial County, to Los Angeles being 218 miles, El Centro to San Pedro 242 miles, and El Centro to San Francisco 686 miles.

Witnesses for defendant testified that the rate of 95 cents per 100 pounds on cotton and cotton linters from Texas and Oklahoma points to San Francisco and other Pacific coast points was forced to meet excessive competition through Galveston and other ports on cotton going to Japan and the Orient via the Suez Canal; therefore, the rate was not considered reasonable or fully compensatory. It was shown by exhibits presented by the defendant that the State of Texas in the year 1912 produced 2,652,240 tons of cotton as against 1,745 tons produced in California, and that under all normal conditions the great volume of cotton produced in Texas would receive a greater consideration in rate adjustments than would the comparative small tonnage produced in California.

It is apparent to me that there is considerable merit in the statement of the defendant that the present rate of 95 cents per 100 pounds from Texas and Oklahoma points to Pacific coast points was published in order to enable the carriers to secure a long haul on business destined for the Orient which would otherwise move via Galveston, thence by water through the Suez Canal.

I am of the opinion that this rate does not afford a reasonable measure of comparison for the rates from Imperial Valley points to Los Angeles, San Pedro, and San Francisco Bay points. While it may be true that the carriers in Texas absorb 10 cents per 100 pounds representing a compressing charge, it is equally true that by making this absorption the railroads obtain a much heavier loading for their cars, and the record shows that from 32,000 to 36,000 pounds of compressed cotton is loaded into a car as against a minimum weight of 16,000 pounds in effect in California.

Based on the present rate of 65 cents per 100 pounds, minimum weight 16,000 pounds per car, the average earnings of the defendant on cotton transportation from Glamis or Imperial Valley points to San Francisco are 15 cents per car mile, which, considering the average earnings of the Southern Pacific system of 21 cents per car mile, certainly indicates that the rate in question is not by comparison exces-

sive. Based on the present rate of \$12.40 per ton, minimum weight of 16,000 pounds, the average earnings from Glamis to San Pedro, a distance of 240 miles, are 41 cents per car mile, which, I believe, under all the circumstances, is excessive.

We have checked the loading of several hundred cars of cotton from Imperial Valley, and the shippers do not seem to have been consistent in loading the cars as heavily as possible. It would appear from the record that many cars of the same dimensions were loaded with greatly varying amounts of cotton. About 60 per cent of the cars loaded carried more than 20,000 pounds, while many cars of the same dimensions as those carrying over 20,000 pounds were loaded as low as 16,000 pounds. It is apparent to me that if shippers take the proper precautions to compress cotton sufficiently no difficulty will be encountered in loading 20,000 pounds into the average car of 40 feet in length.

I find as a fact that the present rate on cotton and cotton linters from Imperial Valley points to San Pedro and Los Angeles are excessive and unreasonable, and should not exceed a rate of 40 cents per 100 pounds, minimum carload weight 20,000 pounds. Defendant should also maintain this rate from Glamis, but inasmuch as no specific complaint was made against the Glamis rate, no order will be entered as to it.

I submit herewith the following form of order:

ORDER.

J. J. Chappell, having filed a complaint with this Commission alleging that the rates on cotton and cotton linters from Imperial Valley points to San Francisco, Oakland, East Oakland, San Pedro, and Los Angeles are excessive and unreasonable, and a hearing having been held, and the Commission being fully apprised in the premises, and basing its order on the findings of fact set out in the opinion preceding this order,

It is hereby ordered that complaint of J. J. Chappell, with reference to the rates to San Francisco, Oakland, and East Oakland on cotton and cotton linters from Imperial Valley points be and the same is hereby dismissed; and

It is hereby further ordered that the Southern Pacific Company publish and file with this Commission, on or before twenty days from the date of service of this order, rate of 40 cents per 100 pounds to apply on cotton and cotton linters from Imperial Valley points to San Pedro and Los Angeles, which rate is found to be just and reasonable for such service.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of December, 1913.

DECISION No. 1163.

J. W. BARNES ET AL.

vs.

SOUTHERN CALIFORNIA EDISON COMPANY.

Case No. 513.

Decided December 24, 1913.

Complaint alleging refusal of defendant to supply electrical energy to pumping plant owned by complainants.

Held, Defendant ordered to supply complainants pumping plant, provided complainants secure a competent man to operate the plant.

Kendrick & Ardis and *Wm. T. Kendrick*, for Complainants.

H. H. Trowbridge and *H. G. Birchley*, for Defendant.

Ben E. Hunter, for *W. F. Palmer et al.*, complainants in intervention.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This complaint was filed to secure an order from the Railroad Commission directing the defendant to supply electric energy to operate a motor used in the pumping of water from a well located on Tract No. 808, situated in Los Angeles County, near Arcadia. The complaint alleges that for some time prior to October 22, 1913, defendant was supplying energy for this purpose, but that it now refuses to do so.

The answer states in effect that said well is owned by sixty-eight separate individuals as tenants in common; that there is a dispute between two factions as to the right to the possession thereof; that armed partisans of various interests are patrolling the vicinity of the plant, threatening to exclude certain of said tenants in common from the possession of said pumping plant, and that at different times within the last five days the different factions have for limited periods of time been in the possession of said pumping plant, to the exclusion of the opposing faction during such limited period of time. The answer further alleges that during the continuance of such conditions it would be dangerous for defendant to supply electric energy to either of the contending factions. It is also alleged that the sum of \$943.10 is now due to defendant for electric energy hitherto furnished by it for the operation of said pumping plant. Notwithstanding the complainant's failure to pay said amount, defendant avers its willingness to furnish energy for the operation of said pumping plant to any person actually in the peaceable physical possession of said plant and entitled thereto.

At the hearing, W. F. Palmer and others, representing the faction opposed to the complainants, filed, under permission of the Commission, a complaint in intervention setting forth their side of the dispute. This complaint alleges in part that the complainants in the main complaint are unskilled and incompetent to operate said plant, and that operation thereof by the complainants would result in serious damage to the plant. The complainants in intervention ask that the complaint be dismissed and that the defendant be directed to furnish energy for the operation of said plant to the complainants in intervention.

The hearing in this case was held in Los Angeles on December 23, 1913. The evidence shows that there has been trouble between the opposing factions with reference to the physical possession of said well and pumping plant, and that on the day of the hearing the complainants were in the actual physical possession thereof. The evidence also shows that the defendant has refused, in view of the circumstances, to supply energy and that as a result thereof the residents on said Tract No. 808 have been unable to obtain water even for domestic purposes except by hauling it for considerable distances in wagons. The defendant waived the point as to the failure to pay back bills as justifying a refusal to serve, and expressed a willingness to resume service if it were adequately protected. The complainants in both complaints agreed that the defendant should supply energy to operate the pumping plant, but the complainants in intervention claimed that the complainants in the main complaint are unskilled in the operation of such a plant, and that if operated by them damage to the property would ensue. The Commission drew attention to the necessity of having a competent person manage the pumping plant, whichever faction might at the time be in the actual physical possession, whereupon the complainants stated that they intended to place in charge of the plant a man who has had considerable experience in the operation of such plants and who thoroughly understands the business. Under these circumstances the defendant should resume the delivery of energy as directed in the order which follows.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the case having been submitted and being now ready for decision,

It is hereby ordered that defendant be and it is hereby ordered to supply electric energy forthwith to that certain pumping plant located on Tract No. 808 in Los Angeles County, California, irrespective of who may from time to time be in the physical possession thereof, on the following condition and not otherwise, to wit:

1. Before defendant shall be obligated to render such service, the complainants shall first have employed a competent man to operate said

pumping plant and shall have informed the defendant and the Railroad Commission of his name.

Nothing herein contained shall be construed as in any way affecting the title or right to possession of said well and pumping plant.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of December, 1913.

DECISION No. 1164.

EDGAR L. STEWART

vs.

GREAT WESTERN POWER COMPANY.

Case No. 479.

Decided December 27, 1913.

Complainant alleges refusal of defendant to install service connections at its own expense.

Held, That the annual income to be derived from such connection does not justify defendant in constructing same. Defendant to install connection at its own expense provided complainant agrees to pay, for a period of five years, a monthly sum of \$9.10 in addition to regular rates for such service, or complainant may, at its own expense, construct a service connection and receive service at the regular rates.

C. J. Goodell, for Complainant.

Chaffee E. Hall, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This complaint was filed for the purpose of compelling the defendant to serve complainant with electric energy for lighting, heating and power purposes. The complaint alleges, in effect, that on or about July 1, 1912, the defendant agreed to supply complainant forthwith, at its own expense, with electric current for lighting, heating and power and that for that purpose it would construct, at its own expense, an electric transmission line to complainant's house, located on his ranch, about half a mile northwesterly from the village of Denverton, in Solano County, California; that the defendant has frequently represented that it would give such service to the complainant but that it has failed to do so; that the complainant, acting on the representations of the defendant to the effect that it would soon supply him with

electric energy, incurred an expense of some \$200.00 in wiring his house and preparing for the reception of electric energy; that defendant has refused to supply complainant unless complainant, at his own cost and expense, should build a transmission line to convey the electric energy from the lines of the defendant to complainant's house; and that defendant has built its lines as far as the village of Denverton and is now supplying electric energy at said place. The complainant asks this Commission to make its order compelling defendant to construct a line to complainant's home and thereafter to supply complainant with electric energy.

The defendant thereafter filed its offer to satisfy the complaint, offering to reimburse the complainant all his expense, not exceeding the sum of \$200.00 for labor and material incident to the wiring of complainant's house in preparation for the reception of electric energy, provided that the complainant would agree to repay this sum to the defendant when electric energy should be supplied to the complainant by the defendant or by any other central station company. The complainant refused to agree to this offer to satisfy his complaint.

The defendant thereafter filed its answer denying most of the material allegations of the complaint.

The answer states that defendant is willing to supply complainant if he, at his own cost and expense, will build a line to convey electric energy from Denverton to his house and will install the transformer necessary to reduce the voltage of defendant's current from 22,000 volts to 220 volts, or if complainant will secure for the defendant a right of way over the land intervening between complainant's house and defendant's 22,000-volt line at Denverton and will reimburse defendant for its cost and expense in furnishing and installing the necessary and proper transformer, poles, wires and other equipment in order to enable the defendant to deliver current to the plaintiff. The answer further sets forth that although the complainant's business was solicited by one of the defendant's agents on or about July 8, 1912, it thereafter became impossible for the defendant to secure the necessary right of way over the land contiguous to the premises of the complainant, with the result that defendant was unable to build its transmission main across complainant's premises as it had anticipated doing, but found it necessary to construct said main at a distance of about one mile from complainant's premises. The answer further alleges that it would cost defendant over \$1,800.00 to prepare itself to supply complainant with electric energy and that the average monthly revenue which it would receive from the sale of current to complainant, in accordance with his original application, would not exceed the sum of \$7.50 per month, or \$90.00 per year.

The hearing in this case was held in San Francisco on December 4, 1913. It appeared at the hearing that on July 8, 1912, the complainant signed an application for electric service from the defendant, which application was headed "Contract for Electric Current," but contained the clause that it should not become binding on the company until accepted by its sales manager. It was never so accepted. Certain agents of the defendant, however, held out to the complainant from time to time the hope that he would soon be served. The application was for a connected load of approximately .72 kilowatts for twelve 16 candle-power carbon lamps and for seven and one half horsepower at 220 volts, for pumping purposes. It appeared at the hearing that complainant, relying largely on the representations of defendant's agents, had wired his house at an expense of \$200 and that he would consume electricity for lighting his house, by means of some 50 electric lights, and also for a one horsepower motor in his dairy, and possibly for an electric range. It appears that at the time this business was solicited, defendant expected to construct its 22,000-volt transmission line from Isleton to Napa over and across the property of complainant and his neighbors, but that defendant thereafter was unable to secure a right of way over the property of certain neighbors of complainant on terms satisfactory to the company and that it thereafter constructed its transmission line between said points on a public highway about one mile north of complainant's house. It appears that for a distance of some 20 miles no current is taken from this transmission line, with the exception of current used to supply certain requirements of the Solano Irrigated Farms Company in and about the community formerly known as Denverton. The necessary distributing lines to supply these needs were constructed at the expense of the Solano Irrigated Farms Company and are their property.

It appears that if defendant is to serve complainant there are two possible methods of securing this end: (1) the construction of a line from defendant's transmission main running along the county road, about one mile distant from complainant's house; (2) the construction of a transmission line to connect with the end of the line of the Solano Irrigated Farms at Denverton, a distance of 6/10 miles from the complainant's house.

For the construction of a three-phase, pole top substation and line from defendant's 22,000-volt transmission line under the first alternative, the company estimates a total cost for pole top substation and one mile of three-phase line of \$1,822.54. This Commission's electrical rate department estimates for the same construction a cost of \$1,652.10. For a single phase pole top substation and line in place of the three-phase construction, this Commission's electrical rate department estimates a total cost, including overhead expenditures, of \$1,148.67.

To cover the construction of a single phase power line from the end of the line of the Solano Irrigated Farms Company to complainant's house, the electrical rate department estimates a total cost of \$490.00.

The following table shows an estimate of total annual cost to defendant if it should be compelled to construct and maintain the line one mile long from its main transmission line to complainant's house, on the theory that a single phase line is constructed:

| | |
|---|--------------------------|
| Interest on investment at 7 per cent..... | \$80 50 per year |
| Average depreciation (including current repairs) at 7 per cent | 80 50 per year |
| Total fixed charges | \$161 00 per year |
| Meter expense, billing and collecting..... | 9 00 per year |
| Power cost at $\frac{3}{4}$ cent per kilowatt hours, taken from transmission line (base rate) | 22 00 per year |
| Total annual cost to company..... | \$192 00 per year |

The defendant has offered that if complainant would construct this line the defendant would maintain the same and refund 20 per cent of the monthly bill. The following table shows the result of such an arrangement:

Cost to complainant:

| | |
|-------------------------------|-----------------|
| Interest on investment..... | \$80 50 |
| Annual bill minus refund..... | 57 60 |
| Total | \$138 10 |

Cost to company:

| | |
|--|-----------------|
| Depreciation of line and substation..... | \$80 50 |
| Cost of power on transmission line | 22 00 |
| Maintenance, billing and collecting..... | 9 00 |
| Total cost | \$111 50 |
| Annual bill minus refund..... | 57 60 |
| Approximate annual loss to company..... | \$53 90 |

If complainant installs the extension from the end of the line of the Solano Irrigated Farms Company, as he has been authorized to do by that company, the result will be as follows:

| | |
|--|-----------------|
| Interest on investment of \$490 at 7 per cent..... | \$34 30 |
| Depreciation | 34 30 |
| Total interest charges..... | \$68 60 |
| Estimated average bill..... | 72 00 |
| Total annual cost to complainant..... | \$140 60 |

Great Western Power Company has heretofore applied to this Commission for a certificate to the effect that public convenience and necessity require and will require the service by that company of electric energy to the county of Solano. In securing such certificate, the defendant necessarily held itself out as being ready and willing to

serve all of Solano County on terms and conditions which are reasonable. The question in this case accordingly is not whether the defendant is under the duty to serve the complainant or any other inhabitant of this county, but rather under what terms and conditions such obligation should be performed. While it is the general rule that it is the duty of a utility holding itself out as being willing to serve a certain territory to incur at its own expense the necessary capital expenses and thereafter to serve the applicant at the published rates, there may be cases in which the expenditure necessary to serve would be so large or in which the other conditions would be such as to make it unreasonable both from the point of view of the company and of its other subscribers, to demand that the necessary extension shall be made entirely at the cost of the utility. I am of the opinion that the present case is one falling within the exception rather than within the general rule. It appears that in order to serve complainant from the defendant's main transmission line between Isleton and Napa it will be necessary for defendant to incur an initial expenditure of at least \$1,148.67, with subsequent charges for operation, maintenance and depreciation, to secure a revenue which will probably not exceed the sum of \$72.00 per year. The evidence shows that there is no reasonable possibility of any other customer being served from the line to complainant's premises. If defendant is to be compelled to serve the complainant in this way, I find that such service should be ordered only on the condition that complainant should pay to the company in addition to his monthly bill, the sum of \$9.10 each month for fixed charges on the excess investment necessary to serve him in this way. If complainant is willing to give to the defendant a satisfactory bond to pay this amount for five years from the beginning of service, this Commission will make its order directing the defendant to serve him by this route, but otherwise such order will not be made.

From the point of view of the complainant, it would undoubtedly be cheaper to construct a single phase pole line from the end of the Solano Irrigated Farms Company's line, a distance of some six tenths miles from his house, at a total cost of some \$490.00. It would be unreasonable to ask the defendant to construct this line, for the reason that the defendant would then find itself in the position of having the lines owned by the Solano Irrigated Farms Company intervening between two portions of its plant. If the Solano Irrigated Farms Company should cease to use its line, the Great Western Power Company would find itself with a piece of its line entirely disconnected from the remaining portions of its system. The company has offered to serve electric energy through the line of the Solano Irrigated Farms Company and the extension thereof to the complainant's house, provided complainant

will, at his own cost, construct such extension. If the complainant is willing to adopt this alternative, and if he finds the defendant unwilling to serve him through such line, he may draw the matter to the attention of this Commission, whereupon the necessary order will be made.

If complainant is not willing to adopt either of the above alternatives, the defendant should repay to him, as provided in its offer to satisfy, the sum of \$200.00 which complainant has expended in wiring his house, provided that the complainant shall repay to the defendant said sum when electric energy shall be furnished to the complainant, either by the defendant or by any other central station company. The defendant should also reconvey to complainant the right of way which complainant heretofore deeded to the defendant in the expectation that he would receive service thereover from the defendant. The property was deeded without any payment on the part of the Great Western Power Company and that company certainly should not retain the property while refusing to serve complainant over this right of way.

It should be distinctly understood that this Commission does not approve the apparently growing tendency on the part of public utilities in this State to refuse to make extensions unless the proposed customer pays for the extension. A very usual arrangement to which this Commission's attention is being frequently directed is an arrangement by which the consumer pays for the cost of the extension and is reimbursed in the amount of 20 per cent, or some similar amount, of his bill month by month. Ordinarily, this Commission will not approve of such an arrangement. Unless an exceptional case is presented, the Commission will adhere to the general principle to the effect that it is the duty of a public utility to build at its own expense all extensions which are necessary to serve persons residing in territory which the company either by direct assertion or by necessary inference holds itself out as ready to serve.

In the present case the general rule is not applied for the reason that it seems clearly to be a case of an exception to the general rule, in which it would be unfair to the utility and to its other customers if it were compelled to incur the large expenditures hereinbefore referred to for the purpose of securing a maximum revenue of only \$72.00 per year. In this connection attention should be drawn to the fact that the company has served no one from its high transmission line for a distance of more than twenty miles, excepting in the case of the Solano Irrigated Farms Company, who have built their own distributing lines, and that if a line is built to serve the complainant, there is no reasonable anticipation that this line may be used to serve any one else.

In conclusion, it should be understood that each case of an asserted exception to the general rule of the duty of a utility to make extensions

at its own expense must be clearly proved before this Commission will authorize a deviation from the general rule.

I submit herewith the following form of order.

ORDER.

A public hearing having been held in the above entitled proceeding and the case having been submitted, and being now ready for decision,

It is hereby ordered as follows:

1. Defendant shall construct a pole top substation and a single phase pole line, complete with transformer and meter, from its main transmission line between Isleton and Napa, a distance of approximately one (1) mile, to serve the complainant in this proceeding, and shall thereafter serve him with electric energy for lighting, heating and power purposes, but only on condition that complainant shall first have executed and delivered to defendant a satisfactory bond agreeing to pay to defendant each month for a period of five (5) years, whether he uses electric energy or not, the sum of nine dollars and ten cents (\$9.10) in addition to his monthly bill at the established rates. If the parties can not agree with reference to the sufficiency of the bond, the matter may be referred to this Commission.

2. If complainant, at his own expense, constructs a single phase pole line from the end of the Solano Irrigated Farms Company's line near the village of Denverton to his house, defendant shall thereafter serve him with electric energy through the line of the Solano Irrigated Farms Company, in accordance with that company's offer, and through the line so constructed by complainant, and shall charge for such service the regular rates on file with this Commission.

3. If complainant does not elect to pursue either of the foregoing alternatives, he shall so notify the defendant, whereupon defendant shall, in accordance with its offer to satisfy, on file in this proceeding, reimburse the complainant in the sum of two hundred (\$200) dollars, this being the amount of money expended by complainant for material and labor incident to the wiring of complainant's house in preparation for the reception of electric energy, provided that complainant shall repay said sum to the defendant if electric energy is hereafter supplied to complainant either by the defendant herein or by some other central station company.

4. Within thirty (30) days from the date of this order, complainant shall notify this Commission and the defendant as to which of the foregoing alternatives, if any, he desires to pursue.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of December, 1913.

DECISION No. 1165.

IN THE MATTER OF THE APPLICATION OF PASADENA CONSOLIDATED WATER COMPANY FOR AUTHORITY TO ISSUE ONE HUNDRED AND TWENTY-NINE SHARES OF CAPITAL STOCK AND PROMISSORY NOTES IN THE SUM OF SEVEN THOUSAND SEVEN HUNDRED DOLLARS.

Application No. 884.

Decided December 27, 1913.

Held, Applicant authorized to issue 129 shares of stock of the par value of \$100.00 per share, proceeds to be used in acquiring a certain pipe line, and to issue three promissory notes of the aggregate amount of \$7,700.00 in lieu of notes heretofore issued.

J. B. Coulston, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order authorizing applicant to issue 129 shares of its capital stock and its promissory notes in the sum of \$7,700.00 for the purposes hereinafter specified.

Applicant is a public utility water corporation supplying water for irrigating and domestic purposes to certain lands specifically described in its amended articles of incorporation, lying east of the city of Pasadena, and containing something over one thousand acres. On March 5, 1912, applicant's board of directors adopted a resolution authorizing the issue of capital stock in the amounts therein designated for the purposes specifically enumerated. Among other provisions, the resolution recited "then when an inventory of the pipe lines referred to in the contracts between the various parties hereto shall have been taken and said pipe lines shall have been measured and appraised, there shall be issued to J. B. Coulston such a number of shares of stock of this corporation as shall represent the value of said pipe lines." These pipe lines were water pipes lying in various portions of the tracts which applicant proposed to serve with water. An inventory of these pipe lines was thereafter prepared, showing the cost of replacing the pipe lines less depreciation. None of the pipe lines had been laid for a period in excess of two years. A copy of the inventory is attached to the petition herein and shows an appraised value of \$11,973.27.

The board of directors also authorized the payment of \$15.00 per share for all shares of Precipice Canyon water stock which could be purchased at that price. Mr. Coulston thereafter bought 67 shares of

the stock of this company at \$15.00 per share and transferred it to applicant.

Thereafter, on December 31, 1912, applicant purported to issue 129 shares of its capital stock, at par, to Mr. Coulston in payment for said pipe lines and said Precipice Canyon water stock. This issue was made without the prior order of this Commission, as provided by section 52 of the Public Utilities Act, and is consequently void. The issue was made in ignorance of the provisions of the Public Utilities Act in this respect, and with no intention to violate its provisions. Applicant now asks authority to issue 129 shares of its capital stock in lieu of those illegally issued. I find that the purposes for which it is desired to issue the stock are not reasonably chargeable to operating expenses or to income, and recommend that this portion of the application be granted.

Applicant has heretofore purported to issue the following promissory notes, all bearing interest at the rate of 7 per cent per annum, and payable to Crown City National Bank:

Note, dated June 24, 1912, for \$1,500.00, payable on demand, proceeds used to meet current expenses.

Note, dated February 2, 1913, for \$5,000.00, payable on demand, proceeds used to install a new well.

Note, dated April 18, 1913, for \$1,500.00, payable two months after date—partial payment of \$300.00 made—proceeds used to meet current expenses.

Applicant's revenues accrue mostly from water sold for irrigation and are principally derived during the summer months. Hence it is necessary at times to borrow money during the other months to meet operating expenses. Mr. Coulston testified that applicant's revenues would soon materially increase and that the company expected to be able before long to pay off the notes issued to meet current expenses. At the present time, applicant is being called upon to incur considerable expenditures for extending its system.

The foregoing notes were all issued without a prior order of this Commission authorizing their issue. The last note was an original note for a definite period of less than twelve months. This Commission's consent accordingly was not necessary to its issue. The other two notes, however, are demand notes on which it might be that demand would not be made until the expiration of more than twelve months. Hence, under the provisions of section 52 of the Public Utilities Act, these notes are void. Applicant now asks authority to issue three new promissory notes, all payable on demand, in lieu of the foregoing three notes. Under all the circumstances, I recommend that this portion of the application be also granted.

I submit herewith the following form of order:

ORDER.

Pasadena Consolidated Water Company having applied to the Railroad Commission for an order authorizing the issue of 129 shares of its capital stock and its promissory notes of the aggregate face value of \$7,700.00, for the purposes hereinafter specified, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the Commission is asked to authorize the issue of the capital stock are not reasonably chargeable to operating expenses or to income and that authority should be granted to issue the promissory notes hereinafter authorized to be issued,

It is hereby ordered as follows:

1. Pasadena Consolidated Water Company is hereby authorized to issue 129 shares of its capital stock, of the par value of \$100.00 each, to J. B. Coulston in payment for the water pipe lines and appurtenances and the 67 shares of Precipice Canyon water stock, which are specifically set forth in the statement which is attached to the petition in this application, on condition that applicant shall call in and cancel the 129 shares of its capital stock which it heretofore purported to issue without the authority of this Commission.

2. Pasadena Consolidated Water Company is hereby authorized to issue its three promissory notes, payable on demand, bearing interest at not to exceed 7 per cent per annum, payable to Crown City National Bank, in the amounts of \$1,500.00, \$5,000.00 and \$1,200.00, respectively, in lieu of the three notes referred to in the opinion which precedes this order, on the condition that it call in and cancel said three promissory notes heretofore issued or purported to be issued.

3. Pasadena Consolidated Water Company shall report to the Railroad Commission the fact and terms of the issue of the capital stock and promissory notes hereby authorized to be issued.

4. This order shall not become effective in so far as it authorizes the issue of promissory notes until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

5. This order shall apply only to capital stock and promissory notes issued prior to February 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of December, 1913.

DECISION No. 1166.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE RIGHTS AND PRIVILEGES GRANTED BY ORDINANCE No. 387 OF THE CITY OF SOUTH PASADENA.

Application No. 893.

Decided December 27, 1913.

Applicant granted a certificate of public convenience and necessity to construct and operate a gas distributing system in the city of South Pasadena.

Paul Overton, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application by Los Angeles Gas and Electric Corporation for a certificate that public convenience and necessity require the exercise of the rights and privileges granted by Ordinance No. 387 of the city of South Pasadena.

Los Angeles Gas and Electric Corporation is a public utility supplying gas and electricity to large portions of Los Angeles County. On October 10, 1911, the company was supplying the inhabitants of South Pasadena, throughout almost the entire extent of the city, with artificial gas, under the constitutional franchise granted to gas companies by section 19 of article XI of the constitution of this State. On said day, said section was amended so as to provide, among other things, in effect, that gas and other utilities would be obliged to secure franchises from incorporated cities and towns before they could extend their wires and mains into new territory within such incorporated cities and towns. (See *Ex parte Russell*, 163 Cal. 668.) Applicant accordingly, on November 11, 1912, made application to the city of South Pasadena for an ordinance granting a franchise to lay, construct, and maintain a system of gas pipes to distribute natural gas or artificial gas under and along all the public streets, avenues, alleys and thoroughfares and other public places in the city of South Pasadena. On July 28, 1913, the board of trustees passed Ordinance No. 387, granting such franchise, to be effective thirty days after its publication. The ordinance is now effective and applicant asks that this Commission make its certificate under the provisions of section 50b of the Public Utilities Act that

public convenience and necessity require the exercise of rights and privileges granted by this ordinance.

The public hearing in this matter was held in South Pasadena on December 22, 1913, and a number of the city trustees and the city attorney were present.

Ordinance No. 387 grants to Los Angeles Gas and Electric Corporation, its successors and assigns, the right to construct and maintain a system of gas pipes for carrying natural gas or artificial gas for light, heat or power under and along the public streets, avenues, alleys, thoroughfares and other public places in South Pasadena. The term of the franchise is thirty years. Provision is made for the method of constructing the pipes and for excavations under the authority of the city. The ordinance contains the usual provisions of the Broughton Act with reference to the payment to the city after five years of two per cent of the gross profits arising from the operation of the business in South Pasadena. Provision is made for the filing with the city of annual reports of the company's business under the franchise and for assignment of the franchise only after receipt of the consent of the city, expressed by ordinance. The ordinance contains other provisions which it is not necessary to examine here.

No person appeared in opposition to the grant of the certificate requested. The ordinance was necessary to authorize the company to make further extensions in the city and sufficiently safeguards the rights of the people of South Pasadena.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted by Ordinance No. 387 of the city of South Pasadena and a public hearing having been held upon said application and the Commission finding that the certificate should be granted,

It is hereby declared that public convenience and necessity require the exercise of the rights and privileges granted to Los Angeles Gas and Electric Corporation, its successors and assigns, by Ordinance No. 387 of the city of South Pasadena.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of December, 1913.

DECISION No. 1167.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC
TELEPHONE AND TELEGRAPH COMPANY FOR A CER-
TIFICATE THAT PUBLIC CONVENIENCE AND NECES-
SITY REQUIRE THE EXERCISE OF THE RIGHTS AND
PRIVILEGES CONFERRED UPON IT BY ORDINANCE
No. 90 OF THE CITY OF EAGLE ROCK.

Application No. 882.

Decided December 27, 1913.

Applicant granted certificate of public convenience and necessity to construct and operate a telephone system in the city of Eagle Rock.

James T. Shaw and John G. Mott, for Applicant.

Hartley Shaw, City Attorney, for City of Eagle Rock.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application, under the provisions of section 50 (b) of the Public Utilities Act for a certificate that public convenience and necessity require the exercise of the rights and privileges granted by Ordinance No. 90 of the city of Eagle Rock.

This ordinance was approved on November 3, 1913, and grants to The Pacific Telephone and Telegraph Company for the period of twenty-five years the right to do a telephone and telegraph business in the city of Eagle Rock, and to use the public streets, highways, alleys and avenues for such purpose. The ordinance contains the usual provisions of the Broughton Act, providing for a payment to the municipality, after five years, of two per cent per annum, of the gross revenue derived from the use of the franchise. The ordinance reserves to the city the right to the use of a portion of the grantee's conduits and poles, and also provides for one desk telephone, without charge to the city. The ordinance contains other provisions to which it is not necessary to refer here.

The franchise was applied for and secured in response to the demand of the city of Eagle Rock that such action be taken, under the provisions of section 19 of article XI of the constitution of this State, as amended on October 10, 1911. Prior thereto the company was operating in this territory without any franchise. The city of Eagle Rock was represented at the hearing and stated its desire that this application be granted. No one appeared in opposition thereto.

I find that the certificate should be granted as applied for, and submit herewith the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having applied for a certificate that public convenience and necessity require the exercise of the rights and privileges granted by Ordinance No. 90 of the city of Eagle Rock, and a public hearing having been held on said application, and the Railroad Commission finding that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise of the rights and privileges granted to The Pacific Telephone and Telegraph Company by Ordinance No. 90 of the city of Eagle Rock.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of December, 1913.

DECISION No. 1168.

IN THE MATTER OF THE APPLICATION OF FOWLER INDEPENDENT TELEPHONE COMPANY FOR PERMISSION TO INCREASE THE MONTHLY RENTAL OF TELEPHONES.

Application No. 799.

Decided December 27, 1913.

Held. Application of Fowler Independent Telephone Company to increase rates in accordance with submitted schedule denied.

Held. That the present rates of applicant are not compensatory. Just and reasonable rates and conditions under which such rates may be charged prescribed, said rates to be effective on or before January 1, 1914.

Howard A. Harris, for the Fowler Independent Telephone Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

The Fowler Independent Telephone Company is operating a telephone system in the city of Fowler, Fresno County, California, and vicinity, embracing approximately seventy-five square miles of territory.

The monthly rates heretofore charged for telephone service have not been the same for those subscribers who were stockholders of the com-

pany as the rates for those subscribers who do not own stock in the company. It is claimed and statements of revenue and expense have been filed with the Commission indicating that the company is not at the present time earning a sufficient return on its investment to enable it to adequately serve its patrons. The application herein is for permission to increase its monthly rates for telephone service and to place in effect a schedule of rates which will place its subscribers who are not stockholders on an equal basis of rates with those subscribers who own stock in the company. The rates at present charged its subscribers per month are as follows:

| Stockholders | | Non-stockholders | |
|-------------------|--------|-------------------|---------------|
| Party lines ----- | \$1 25 | Party lines ----- | \$2 00 |
| Main lines ----- | 1 50 | Main lines ----- | 3 00 and 3 25 |

The revenue and expense statement above referred to which was filed with the Commission shows the following monthly average receipts and expenses:

| | |
|-----------------------|----------|
| <i>Receipts—</i> | |
| Rentals ----- | \$360 70 |
| Tolls ----- | 66 56 |
| Total ----- | \$427 26 |
| <i>Expenses</i> ----- | 394 96 |
| Net earnings ----- | \$32 30 |

The applicant was requested to file with the Commission a classified list of its subscribers, showing the rate paid by each class. This classification shows that there were, as of the date of the application, 318 subscribers receiving service as follows:

| | |
|--|----------|
| 273 party line subscribers at \$1.25 per month ----- | \$291 25 |
| 38 party line subscribers at \$2.00 per month ----- | 76 00 |
| 40 main line subscribers at \$1.50 per month ----- | 60 00 |
| 5 main line subscribers at \$3.00 per month ----- | 15 00 |
| 2 main line subscribers at \$3.25 per month ----- | 6 50 |
| 318 subscribers ----- | \$448 75 |

This classification of subscribers and rates shows a monthly rental revenue of \$88.05 in excess of the amount of monthly receipts from rentals shown in the applicant's statement of average monthly receipts and expenses. Witness for the applicant testified that only the amount of cash collected from subscribers instead of the total amount which should have been charged on the books was reported on this statement under rental revenue. It was shown that subscribers who own stock, of which class there are 273, are allowed a discount of 25 cents per month if their bills are paid on or before the tenth day of the current month, and that most of these subscribers take advantage of this privilege, so that, while the classification herein referred to shows a total monthly rental of \$448.75, in the event of all this number having their bills

reduced in return for prompt payment, the total monthly revenue would be less than this amount. The statement would then show:

| | | |
|-------------------------------------|----------|----------|
| <i>Receipts—</i> | | |
| Rentals as per classification ----- | \$448 75 | |
| Tolls ----- | 66 56 | |
| | | \$515 31 |
| <i>Expenses—</i> | | |
| As per statement ----- | \$394 96 | |
| Discounts to subscribers ----- | 68 25 | |
| | | 463 21 |
| Monthly net earnings ----- | | \$52 10 |
| Yearly net earnings ----- | | 625 20 |

The applicant's investment as shown by its plant and property statement is \$18,759.40. An earning of \$625.20 per year represents a return of 3 1/3 per cent on this valuation, and while the Commission withholds its ultimate approval of this valuation, an inspection sufficient to determine a proper valuation not having been made, it is apparent for the purposes of this proceeding that this amount is not excessive.

Witness for the applicant testified that the company has paid no dividends whatever, the amount of its earnings having been put back into plant. It has also assessed its stockholders, and, in addition, its directors have given their personal notes to secure loans for necessary extensions and maintenance of the system. A balance of \$2,900.00 is now owing on a note which was given to secure funds for placing a portion of the plant underground to comply with the requirements of a recent city ordinance. A portion of the applicant's lines are in poor condition and require repairing. Others are overcrowded beyond the limit of possibility for satisfactory or efficient service, and additional lines should be provided to relieve this congestion.

The difficulty appears to be that the rates have not heretofore been such as to afford sufficient revenue to properly conduct the business, and there appears to be no adequate reason for not allowing the rates to be placed upon a reasonable basis. Heretofore it has been the practice of the applicant to charge patrons who desire to invest in stock of the company rates which are more favorable than the rates charged those patrons who do not desire to make such investment. The amount of stock which a patron is required to purchase varies with the cost of providing service, and, while it is evident that the owners of capital will not invest in an enterprise which does not promise a reasonable return to the investor, and while a more favorable rate to stockholders than to those patrons who have not purchased stock may be in a measure possible of justification on this basis, it is also evident that stockholders' rates should not be so low as to unduly burden the other rates. A more equitable basis would seem to be to establish similar rates for similar service to all patrons alike and to pay purchasers of stock a reasonable return in the

form of dividends on their investment. I shall, therefore, recommend that stockholders and non-stockholders be charged the same rates.

It is a common practice among telephone companies to establish what is known as an exchange radius about an exchange, embracing a definite area, within which exchange service is provided at specified rates and beyond the exchange radius thus established to provide service under suburban and rural rates. The Fowler Independent Telephone Company has not provided in its present schedule for an exchange radius, or for suburban or rural service rates. These are essential from a standpoint of service as well, also, as a protection against excessive or unprofitable construction costs, and the recommendations herein will provide for each.

The rates which the applicant desires to place in effect in lieu of present rates are as follows:

| <i>Business service—</i> | | Wall | Desk |
|--------------------------------|--|--------|--------|
| One-party (main line) ----- | | \$3 00 | \$3 25 |
| Two-party ----- | | 2 50 | 2 75 |
| Suburban ----- | | 2 50 | 2 75 |
| Extensions with bell ----- | | 1 00 | 1 00 |
| Extensions without bell ----- | | 50 | 50 |
| <i>Residence service—</i> | | | |
| One-party (main line) ----- | | \$2 50 | \$2 75 |
| Two-party ----- | | 2 25 | 2 50 |
| Four-party ----- | | 2 00 | 2 25 |
| Suburban ----- | | 2 00 | 2 25 |
| Extensions with bell ----- | | 1 00 | 1 00 |
| Extensions without bell ----- | | 50 | 50 |
| Extension bell only, 50 cents. | | | |

The adoption of any schedule designed to provide for classes of service not provided for in the present schedule will call for a reclassification or regrading of present subscribers, but without a canvas it is possible only to estimate the class of service which present subscribers will elect to take when the new schedule is put into effect. The applicant has estimated that under the schedule above proposed its present subscribers would be reclassified about as follows:

| <i>Business—</i> | | |
|----------------------------|--|--------|
| 12 one-party wall at ----- | | \$3 00 |
| 11 one-party desk at ----- | | 3 25 |
| 13 two-party wall at ----- | | 2 50 |
| 5 two-party desk at ----- | | 2 75 |
| 233 suburban at ----- | | 2 50 |
| 13 extensions at ----- | | 1 00 |
| 2 extension bells at ----- | | 50 |
| <i>Residence—</i> | | |
| 11 one-party wall at ----- | | \$2 50 |
| 9 two-party wall at ----- | | 2 25 |
| 1 two-party desk at ----- | | 2 50 |
| 2 four-party wall at ----- | | 2 00 |
| 18 suburban at ----- | | 2 00 |

Under this estimate the net annual revenue, inclusive of the average annual toll revenue shown in the applicant's statement, after deducting annual expenses, would become \$5,806.20, representing a return of over 30 per cent on an investment of \$18,759.40. If all subscribers on this schedule were allowed a reduction of 25 cents per month for prompt payment of bills, the net revenue under this schedule would become \$4,852.20, representing a net return of over 25 per cent on this investment.

With reference to rates which are made subject to reductions for payment of bills by any specified date, this Commission has heretofore taken the position that, while this practice should not be entirely condemned, the discount should not be so large that it can be used as a revenue producing device as might be the case if subscribers should fail to pay before the specified date. It is my opinion that such practice should be allowed, if at all, only as an inducement to the payment of accounts to reduce the cost of making collections and should be applied in the form of an additional charge for non-payment rather than a discount for prompt payment, and I shall recommend that this practice be discontinued.

While I find that the present rates of the applicant yield a return of approximately $3\frac{1}{3}$ per cent on the present value of the plant, they are not sufficient to enable the applicant to render efficient and sufficient telephone service to its patrons and they should be increased. I find also that rates which will yield a net return of over 30 per cent or even over 25 per cent are unreasonable and unjust, and must be denied. It remains then to determine upon a schedule of just and reasonable rates which the applicant may charge its patrons for telephone service in the territory covered by this application.

As previously pointed out, it can not be definitely predetermined what classes of service and rates present subscribers may elect to take when rates are to be increased and when the classes of service to be offered are to be changed. For this reason, revenue results can only be estimated and final approval of the rates herein recommended will be withheld and the applicant directed to render to the Commission at least two reports, covering two consecutive periods of six months each, immediately following the effective date of the order in this application, setting forth the results of the application of the rates herein provided; and thereafter final approval will be given or further revision ordered as in the opinion of the Commission may appear proper.

The following rates are recommended:

RATES.

A radius of one mile from the central exchange shall be established by the applicant within which service shall be provided at the following rates, namely:

| <i>Business service—</i> | Wired set | Desk set |
|---------------------------------|-----------|----------|
| One-party ----- | \$2 50 | \$2 75 |
| Two-party ----- | 2 00 | 2 25 |
| Suburban ----- | 1 50 | 1 75 |
| Extensions with bell ----- | 1 00 | 1 00 |
| Extensions without bell ----- | 50 | 50 |
| Extension bells only, 25 cents. | | |
| Farmer line service, 60 cents. | | |
| <i>Residence service—</i> | | |
| One-party ----- | \$2 00 | \$2 25 |
| Two-party ----- | 1 75 | 2 00 |
| Four-party ----- | 1 50 | 1 75 |
| Suburban ----- | 1 25 | 1 50 |
| Extensions with bell ----- | 1 00 | 1 00 |
| Extensions without bell ----- | 50 | 50 |
| Extension bells only, 25 cents. | | |
| Farmer line service, 30 cents. | | |

Suburban lines shall be built as follows:

Not to exceed three miles from the central exchange for a minimum of four subscribers.

Beyond three miles and not exceeding five miles from the central exchange for a minimum of five subscribers.

Beyond five miles and not to exceed ten miles from the central exchange for a minimum of six subscribers, provided that for each mile or fraction of a mile of line required over the first six miles there shall be not less than one subscriber in addition to the minimum of six, as follows:

| Distance from central exchange | Minimum number subscribers required |
|--------------------------------|-------------------------------------|
| Not exceeding 3 miles ----- | 4 subscribers |
| Not exceeding 5 miles ----- | 5 subscribers |
| Not exceeding 6 miles ----- | 6 subscribers |
| Not exceeding 7 miles ----- | 7 subscribers |
| Not exceeding 8 miles ----- | 8 subscribers |
| Not exceeding 9 miles ----- | 9 subscribers |
| Not exceeding 10 miles ----- | 10 subscribers |

Suburban service at the above rates to be provided only beyond the exchange radius of one mile from the central exchange. Suburban lines not to exceed ten subscribers to one line.

In providing lines for suburban service for patrons of the smaller telephone companies, it is generally advisable to employ methods of construction which do not involve construction costs as great as in those cases where it is necessary to maintain heavy leads. The rates herein recommended for this class of service are based upon employing small poles with bracket and glass construction.

Under rates for farmer line service, the telephone company will furnish central office connection and circuit and maintenance of the same to the exchange limits for a minimum of five subscribers, or for a lesser number than five only upon the payment of the equivalent in monthly rentals of five stations; subscribers to furnish necessary telephones and circuit from their premises to the exchange limits.

The applicant's present schedule does not provide a rate for "farmer line" service. The introduction of such a rate in the schedule herein recommended, where at present the lowest rate offered is considerably higher than the farmer line rate, while it imposes upon the subscriber a certain investment in plant as a condition to furnishing farmer line service, it also offers such an inducement in the lower rate that it is highly probable that a considerable number of the present subscribers may demand the lower rate. The applicant has a considerable investment in lines which have been built to provide the subscribers with their present service, and it is even probable that the demand may assume such proportions as to result in the present lines being left without sufficient subscribers to enable the applicant to continue their operation except at a loss unless some protection is provided to safeguard this investment. It is my opinion that the rates herein provided for farmer line service should not be extended to present subscribers except upon condition that in consideration of the lower rate offered, instead of being allowed to build new lines to the exchange limits and there demand connection at farmer line rates, they be required to purchase at a fair valuation from the telephone company such present existing lines as may otherwise be rendered unprofitable to the telephone company. In the event of a disagreement as to fair valuations for the sale of such lines the Commission may be called upon to determine reasonable terms for their sale. The rates herein provided for farmer line service, so far as present subscribers are concerned, are recommended on this basis as a protection to which, in my opinion, the company is justly entitled.

MILEAGE CHARGES.

For exchange service (one or two-party business or one, two or four-party residence) beyond the exchange radius, the following charges for mileage, in addition to schedule rates for exchange service shall apply:

| | |
|-----------------|--|
| One-party----- | 50 cents per month per quarter mile or fraction thereof. |
| Two-party----- | 35 cents per month per quarter mile or fraction thereof. |
| Four-party----- | 25 cents per month per quarter mile or fraction thereof. |

Under the applicant's estimated classification, the annual revenue from rentals under this schedule of rates would be \$6,363.00.

The applicant's toll revenues are derived through commissions paid it for interchange of service with The Pacific Telephone and Telegraph Company. That company is now allowing other connecting companies 30 per cent of its tolls for originating paid messages or the equivalent of 30 per cent divided between originating and incoming messages. It is now paying the applicant less than that amount and the applicant stated that application would be made for an allowance of 30 per cent. According to figures furnished by The Pacific Telephone and Telegraph Company, the applicant's toll receipts on that basis will average approximately \$894.84 per year. After deducting all expenses, the net yearly revenue, inclusive of tolls and rentals as above estimated, will

become approximately \$2,518.32, which represents a net return of 13.42 per cent on the investment. Under the conditions hereinbefore set forth, I am of the opinion that this will constitute a reasonable earning to the applicant, and recommend the following order.

It should be clearly understood that what is said in this opinion with relation to farmer lines and farmer line service and to extensions of the lines of this telephone company applies only to the facts and circumstances of this particular case and should not be construed as an attempt to establish a general rule.

ORDER.

Application having been made to this Commission by the Fowler Independent Telephone Company, operating a telephone system in the city of Fowler, Fresno County, California, and adjacent territory as a public utility, for permission to increase its monthly rates for telephone service, and a public hearing having been held thereon, and it appearing to the Commission that the monthly rates which the applicant desires to charge its patrons for telephone service are unjust and unreasonable,

It is hereby ordered that the application herein be denied. And it further appearing to the Commission that the monthly rates at present charged its patrons by the applicant are insufficient to enable it to render efficient and sufficient telephone service to its telephone patrons.

It is hereby further ordered that the Fowler Independent Telephone Company be and it hereby is authorized to publish, file with this Commission and put into effect on or before the first day of January, 1914, the following schedule of rates, which rates the Commission finds to be just and reasonable rates to be charged its patrons by said telephone company for telephone service in the territory covered by this application, namely:

Business service—

| | Wall set | Desk set |
|---|----------|----------|
| One-party per month ----- | \$2 50 | \$2 75 |
| Two-party per month ----- | 2 00 | 2 25 |
| Suburban per month ----- | 1 50 | 1 75 |
| Extensions with bell ----- | 1 00 | 1 00 |
| Extensions without bell ----- | 50 | 50 |
| Extension bells only, 25 cents per month. | | |
| Farmer line service, 60 cents per month. | | |

Residence service—

| | | |
|---|--------|--------|
| One-party per month ----- | \$2 00 | \$2 25 |
| Two-party per month ----- | 1 75 | 2 00 |
| Four-party per month ----- | 1 50 | 1 75 |
| Suburban per month ----- | 1 25 | 1 50 |
| Extensions with bell ----- | 1 00 | 1 00 |
| Extensions without bell ----- | 50 | 50 |
| Extension bells only, 25 cents per month. | | |
| Farmer line service, 30 cents per month. | | |

Providing that a radius of one mile from the central exchange shall be established by the applicant, within which radius exchange service shall

be provided at the rates herein provided. And provided, further, that suburban lines shall be built to provide service under suburban rates herein provided, as follows:

Not to exceed three miles from the central exchange for a minimum of four subscribers.

Beyond three miles and not exceeding five miles from the central exchange for a minimum of five subscribers.

Beyond five miles and not to exceed ten miles from the central exchange for a minimum of six subscribers for the first six miles of line required, provided that for each mile or fraction of a mile of line required over the first six miles there shall be not less than an average of one subscriber in addition to the minimum of six.

Suburban service to be provided under the foregoing rates only beyond the exchange radius of one mile from the central exchange.

The maximum number of subscribers connected to one suburban line shall not exceed ten.

And provided, further, that under the foregoing rates providing for farmer line service the telephone company shall furnish central office connection and circuit to the exchange limits and maintenance of the same for a minimum of five subscribers or for a lesser number than five only upon the payment to the telephone company of the equivalent in monthly rentals for five stations; subscribers to furnish and maintain necessary telephones and circuits from their premises to the exchange limits.

MILEAGE CHARGES.

For exchange service (one or two-party business or one, two or four-party residence) beyond the exchange radius, the following charges for mileage, in addition to the foregoing schedule of rates for exchange service shall apply:

| | | |
|------------|-------|---|
| One-party | ----- | 50 cents per month for each quarter mile or fraction thereof. |
| Two-party | ----- | 35 cents per month for each quarter mile or fraction thereof. |
| Four-party | ----- | 25 cents per month for each quarter mile or fraction thereof. |

And provided, further, that the discount of 25 cents per month at present allowed stockholders for payment of bills on or before the tenth day of each current month shall be discontinued.

And provided, further, that, as to the applicant's present subscribers who may elect to subscribe for farmer line service under the rates herein provided, such rates shall apply only when such present existing lines as may otherwise be rendered unprofitable to the telephone company by reason of their partial or complete abandonment as suburban or exchange lines if subscribers were allowed to build new lines to the exchange limits and thereupon to demand farmer line rates, shall be purchased at reasonable or fair valuations from said telephone company by such present subscribers desiring service at farmer line rates, otherwise these rates shall not be held as applicable to present subscribers. In the event that said telephone company and its subscribers can not agree upon terms for the sale of such lines, the Commission may be called

upon to determine fair valuations for their sale; and such valuations when fixed by the Commission shall be binding as to both parties.

And provided, further, that this permission does not waive any of the Commission's published rules relative to the sale or transfer of any portion of this applicant's property, nor any of the provisions of the Constitution of the State of California or of the Public Utilities Act with reference to such sale or transfer.

And it is hereby further ordered that said telephone company, immediately following the effective date of this order, shall keep true and accurate records for two consecutive periods of six months each and shall file with this Commission reports in detail setting forth the results of the application of the rates herein authorized, and that thereafter final approval of the rates shall be given or further changes authorized as in the opinion of the Commission may seem proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of December, 1913.

DECISION No. 1169.

M. FARRELL ET AL.

vs.

PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 465.

Decided December 27, 1913.

Held, That the interexchange switching privileges afforded Mountain View and Los Altos exchange subscribers constitutes a just and reasonable exchange area. Complainant's petition to be incorporated with either the Palo Alto or San Jose exchanges denied.

Held, Defendant required to install within three months battery equipment in place of magneto type now in use in Mountain View. No ruling made as to rates, relief being afforded by prior decisions of the Commission.

Mason & Locks, for Complainants.

J. T. Shaw, for Defendant.

REPORT OF THE COMMISSION.

ESHLEMAN, Commissioner.

The complainants herein are subscribers of The Pacific Telephone and Telegraph Company in the vicinity of Mountain View and Los Altos

and they complain that subscribers of The Pacific Telephone and Telegraph Company at various points in what is termed the San Jose and Palo Alto zones have free exchange privileges which are not accorded to complainants. The points in San Jose zone at which free switching privileges are alleged to exist are Milpitas, Alviso, Sunnyvale, Santa Clara, San Jose, Campbell, Cupertino, Saratoga, Los Altos, Mt. Hamilton, Berryessa, Evergreen and Coyote; and the points in the Palo Alto zone alleged to be similarly favored are Palo Alto, Mayfield, University, Menlo Park, Redwood City, Woodside, Atherton and La Honda. It is further alleged that the equipment furnished to subscribers of the Mountain View and Los Altos exchange is of antiquated type and inferior to that used in the adjacent exchanges; and that the subscribers in Menlo Park, Mayfield and Sunnyvale, with a less number of telephones in service, are allowed "two number" toll service at reduced rates with San Francisco, which privilege is not accorded to complainants. A complaint is also made of the charge of 15 cents for messages from Mountain View and Los Altos to San Jose, and the charge of 25 cents for one minute and 10 cents for each additional minute for messages from Mountain View and Los Altos to San Francisco. It is likewise urged that the three-minute initial period for messages to San Francisco and from San Jose and Palo Alto as compared with the one-minute initial period from Mountain View and Los Altos, constitutes an unjust discrimination against these complainants.

To satisfy these complaints it is asked that the territory embraced within the Mountain View and Los Altos exchange district be incorporated in either the San Jose or Palo Alto zones as may in the opinion of the Commission be deemed to be to the best interest of the public, and that the defendant be required to install modern equipment in Mountain View and Los Altos exchanges, and that two-number service be accorded Mountain View and Los Altos to San Francisco, and that the rates complained of be reduced.

The defendant, in its answer, sets up the fact that the major portion of the complaint herein deals with matters involved in Application No. 2 and Cases Nos. 407 and 387. As far as the matters complained of are concerned, other than the antiquated facilities accorded to complainants and their incorporation in the San Jose or Palo Alto exchanges, the defendant is correct, and these matters are involved in the cases referred to, which have already been decided in accordance with complainants' contentions.

The testimony shows that modern equipment has already been installed at Los Altos and that the company is proceeding in good faith to install like equipment in Mountain View. There can be no question that the present facilities afforded at Mountain View are not those to

which the patrons of this company are entitled, but the fact that this company offers to remedy this condition as soon as reasonably possible makes it unnecessary for the present to make an order with reference thereto.

In the decisions in the cases heretofore referred to and in the improvement of the facilities at Los Altos and Mountain View the complainants have secured everything applied for except their incorporation in either the San Jose or Palo Alto exchange, and it becomes necessary to consider this aspect of the case more in detail.

So far as the telephonic situation in Los Altos and Mountain View as compared with the conditions in Palo Alto, Menlo Park, Mayfield and Sunnyvale is concerned, the telephone company contends and introduced testimony at the hearing tending to prove that exchanges are not maintained at Menlo Park and Mayfield, but that subscribers at these points connect by direct subscribers' lines with the Palo Alto exchange and that these localities constitute an integral part of the Palo Alto exchange area, and, as subscribers of the Palo Alto exchange, Palo Alto exchange rates for service are charged. Sunnyvale subscribers were in years past connected by subscribers' lines directly with the Santa Clara exchange, but business has increased at this point to such an extent that the establishment and maintenance of a separate exchange at Sunnyvale has become necessary. There is a community of interest between Santa Clara and Sunnyvale and between Santa Clara and San Jose demanding service between these points which has been made the basis of equipment and rates for subscribers of the three latter exchanges. Similar conditions exist as between Mountain View and Los Altos, and equipment and rates for subscribers at these exchanges have been provided to meet these conditions. In other words, Menlo Park and Mayfield form a portion of the Palo Alto exchange area, and subscribers at these points have the same service as other subscribers within the same area. Sunnyvale forms a portion of the San Jose exchange area, and subscribers at Sunnyvale have the same service as other subscribers within the San Jose area. The rates charged for service within each area are the same as to all subscribers within that area. Subscribers at Mountain View and Los Altos are allowed unlimited interchange service, their privileges being the same; their rates are based upon these service privileges. The service furnished subscribers in the area of Palo Alto exchange being based on a broader scale than that included in the Mountain View and Los Altos area, the rates charged are correspondingly higher; and the service furnished subscribers in the San Jose area being as it is based on a scale even broader than that of the Palo Alto area, the rates charged are higher than those charged in either the Mountain View and Los Altos or the Palo Alto exchange areas.

The question of just what shall constitute an exchange area within which unlimited switching may be permitted without extra toll charge is often hard to determine, and should be regulated primarily by the community of interests existing. The telephone bill paid by the people of the State of California is made up of the amounts paid in monthly rentals within exchanges plus the amounts paid for long distance or toll service. If it were not for convenience of operation, it demonstrably would make no difference to the telephone company whether it collected this total amount entirely from the exchanges or divided it between exchange and toll rates, as is now the case. If, however, every person in the State were permitted for his monthly rental to telephone to any point within the State, his monthly rental would necessarily be higher than at present. The theory of the telephone company is that except as between localities where close community of interest exists, wherein constant interchange of telephonic communication takes place, there should be no so-called free switching. The use of the term "free switching," in passing, is well to point out, is unfortunate and leads to much of the confusion that exists with reference to this matter. As I have already pointed out, if the entire State of California were one large exchange, we would have unlimited free switching, under the common acceptance of the term, but as a matter of fact it is very apparent that this switching would not be free and would be apportioned to all the subscribers and would represent the amount which the rate for the subscriber to this extensive exchange exceeds the amount which the subscriber had theretofore paid in his more limited exchange, and would be in the aggregate the total amount which is now collected for so-called toll or long distance service.

Assuming that the amounts which are now being received by this company for exchange service in the San Jose area and in the Mountain View and Los Altos area plus the amounts received for long distance or toll service between these points is the proper amount to be received by this company for the entire service performed, then demonstrably if the Mountain View and Los Altos area be included within the San Jose area and no toll rates collected, an added rate must apply for exchange service apportioned to all the subscribers within this area which will represent the total amount collected for toll service when these areas were in separate exchange areas. If one of the patrons of this company within the territory involved pays, say, \$2.00 a month for unlimited switching within Los Altos and Mountain View and an average of 25 cents a month in telephoning to San Jose, necessarily his telephone bill is \$2.25 per month. On the other hand, if some other subscriber, with the same kind of telephone, likewise pays \$2.00 a month as his exchange rate and has an average monthly toll bill of 50 cents

for toll calls to San Jose, for example, his monthly telephone bill amounts to \$2.50. If these areas are made into one exchange area the man last referred to will be accorded the same rate as the former, regardless of his greater amount of long distance switching.

It is my opinion that the telephone company's practice is correct of apportioning the toll charge to those who use the toll facilities instead of to all of the exchange subscribers, except in those cases where such a community of interest exists as is here shown to exist between Los Altos and Mountain View or between Sunnyvale and San Jose. Necessarily, the limit of an exchange must stop somewhere, and it does not appear to me that sufficient benefit would accrue to the patrons of this company within the Los Altos and Mountain View area from including them within either the Palo Alto or San Jose area to warrant the change required.

I do not mean to be understood as saying that in every case where the exchange area is enlarged the exchange rate should be increased. Certainly, however, the value of the service to the user is enhanced, but very often the more universal use of telephone facilities which follows a liberal policy may compensate for the loss of toll revenue resulting from the enlarging of exchange areas. In this case, however, I am not satisfied from the evidence that such would be the result, and with the satisfaction of the very important grounds of complaint, which I have already said are fully justified, I feel that the conditions will be so improved that for the present at least no legitimate complaint against this company within the territory involved exists.

I recommend the following order:

ORDER.

Complaint having been filed with this Commission by M. Farrell and others, of Mountain View and Los Altos, against The Pacific Telephone and Telegraph Company, a public utility telephone corporation, and a hearing having been held, and being fully appraised in the premises, the Commission hereby finds as a fact:

1. That the interexchange switching privileges afforded its subscribers by The Pacific Telephone and Telegraph Company in its Mountain View and Los Altos exchanges, are just and reasonable privileges, and do not constitute a discrimination against the patrons of this company within the Mountain View and Los Altos area.

2. That the complaint against the character of the facilities at Los Altos has been already satisfied by the installation of modern equipment at that place.

3. That the type of equipment in use at Mountain View is the so-called magneto equipment and is not modern or efficient and should be replaced with the so-called common battery equipment.

4. That the complaints between the toll rates between the area involved and San Francisco and San Jose are justified, but relief has already been afforded by this Commission in other proceedings.

And basing this order on the foregoing findings of fact, *it is hereby ordered*,

1. That the petition of the complainants herein to be included in either the area of the defendant's exchange at San Jose or Palo Alto and to be accorded so-called free switching privileges with subscribers of exchanges included within either of said areas, be and the same is hereby denied.

2. That the defendant herein, within three (3) months from the effective date of this order, or within such further time as the Commission shall find after a further showing on the part of the defendant to be necessary, be required to replace the magneto type of equipment at present in use within its Mountain View exchange with modern common battery equipment throughout.

3. This order to become effective twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of December, 1913.

DECISION No. 1170.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE
PROPERTY OF SIERRA RAILWAY COMPANY OF CALI-
FORNIA WITHIN THE STATE OF CALIFORNIA.

Case No. 193.

Decided December 27, 1913.

Proceeding on motion of Commission to ascertain various elements entering into the value of respondent's property. Finding made as to facts, but not on the question of the value of the property irrespective of the purposes for which the value is ascertained. Opinion and order in Case No. 206 referred to for general procedure, in valuation cases, and for definitions of terms used. History of respondent reviewed.

Findings of fact: (1) That the reproduction value of the operative physical property of respondent, as of June 30, 1912, is the sum of \$2,697,589.40. (2) That the present value of the operative physical property of respondent, as of June 30, 1912, is the sum of \$2,432,792.00.

P. F. Dunne, of Morrison, Dunne & Brobeck, for Sierra Railway Company of California.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

This is one of the so-called railroad valuation cases brought upon the Commission's own initiative for the purpose of ascertaining the facts entering into the value of the property of the various steam railroad corporations in the State of California. These proceedings were originally instituted under the provisions of section 20 of the Stetson Act, effective February 10, 1911, and were continued under the provisions of the Public Utilities Act, effective March 23, 1912. The sections of the Public Utilities Act particularly applicable to these proceedings are sections 47 and 70, and for the general procedure in these valuation cases and for a general description of the work performed by the Commission's engineering department therein, reference is hereby made to this Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company. As in that case, so here also, I shall make findings of fact bearing on the question of value as shown by the evidence in this case, and shall not make findings on the question of the value of the property, irrespective of the purposes for which the value is ascertained, but shall leave to the future the use of these facts and such thereof as may be material in any proceedings in which these facts may become relevant; and the fact that a finding is made on a particular matter is not to be construed as expressing the view of this Commission that that particular matter should enter into a consideration of the value of the property of this railway company for any particular purpose. For instance, I shall find in this case that it would reasonably cost a certain amount of money to secure the right of way and real estate which this company utilizes in the operation of its road as a common carrier, assuming that the railway was not constructed nor in existence and that all other local conditions, both physical and commercial, are as they are, but in making this finding I shall not pass on the question as to whether this amount should be considered at all in subsequent controversies affecting this railway as to rates, the issuing of securities, or in other matters. I shall confine myself to the finding of facts relative to different elements, which have from time to time been considered by the courts in cases where the value of the property of a railroad company has been material. In making findings of facts in this case I shall consider the following matters:

- (1) Organization, construction and operation.
- (2) Stocks and bonds.
- (3) Revenues and expenses.
- (4) Original cost as defined.

- (5) Reproduction value as defined.
- (6) Present value as defined.

Before proceeding further I will define certain terms which will be used herein.

The term "original book cost," as used in this opinion, means the actual expenditures, chargeable to capital account in accordance with the classification of expenditures for road and equipment as prescribed by the Interstate Commerce Commission for steam roads, made by the railroad company for its operative property in the State of California, as of June 30, 1912.

The term "reproduction value," as used in this opinion, means the estimated cost in cash of acquiring the operative right of way and other real estate and of reproducing in the condition in which it was acquired the other physical property of the railroad company in the State of California, as of June 30, 1912, to which are added overhead expenditures for engineering, law, interest and commissions, and similar items.

The term "present value," as used in this opinion, means the "reproduction value" less the diminution in value of the physical elements of the property, due to use, age, obsolescence, inadequacy and other causes, plus appreciation where found. This might properly be called "depreciated reproduction value," and does not mean the ultimate fact of present value, as that term is ordinarily used.

In accordance with this Commission's order dated October 24, 1911, the Sierra Railway Company of California on February 15, 1912, filed an inventory of its property in the State of California, together with an estimate of its reproduction value and present value, the final summary sheet of which is attached to this opinion and marked "Exhibit A."

On April 19, 1913, this Commission's engineering department submitted its detailed report in the above proceeding. A copy of its final summary sheet, as presented on said day, is attached hereto and marked "Exhibit B."

Thereafter, on May 6, 1913, May 17, 1913, and June 11, 1913, hearings were held in this proceeding. The railway company was represented and made numerous objections to the report of this Commission's engineering department, particularly with reference to the department's estimate as to reproduction value and present value, as will hereinafter appear.

(1) Organization, Construction and Operation.

The Sierra Railway Company of California was incorporated on the 1st day of February, 1897, for the purpose of constructing and operating a standard gauge railroad, for the carriage of passengers and freight, from the city of Oakdale, on the Southern Pacific Company's lines in

Stanislaus County, California, in a general easterly and northeasterly direction to a point in Calaveras County, near the town of Angels, a distance of approximately 65 miles, with the following branch lines :

1. To Modesto, Stanislaus County, a distance of 18 miles.
2. To Knights Ferry, Stanislaus County, a distance of 9 miles.
3. To La Grange, Stanislaus County, a distance of 6 miles.
4. To Coulterville, Mariposa County, a distance of 25 miles.

A total of 59 miles of branch lines.

Only a portion of the projected lines was constructed. The line as constructed and operated consists of a main line extending from Oakdale in Stanislaus County to Tuolumne in Tuolumne County, with a branch line from Jamestown, Tuolumne County, on the main line, to Angels, Calaveras County, which is known as the "Angels Branch," a total distance of main line mileage of 56.81 and a branch line mileage of 19.47. Between Oakdale and Tuolumne on the main line there are 8.98 miles of siding, spur and industry track, and on the Angels Branch there are 1.25 miles of such track. There is a total mileage of main line and branch line tracks of 76.28 and of all tracks, 86.51.

The present president of the Sierra Railway Company of California, was the principal promoter of the railway company and also president of the West Coast Construction Company, which company constructed all of the road that is now operated by this company. Prior to the incorporation of the railway company he had acquired the greater portion of the necessary right of way in Stanislaus, Tuolumne and Calaveras counties, which right of way was turned over to the railway company for a cash consideration of \$11,600.00, and a certain amount of capital stock of the railway company. In March, 1897, the Sierra Railway Company of California entered into four contracts with the West Coast Construction Company, providing for the complete construction, inclusive of track, of 40 miles of railroad from Oakdale to Jamestown. This construction was over the original location of the line, a part of which, aggregating 9 miles in length, was later abandoned in favor of a better location. This construction work was not heavy, and on June 21, 1897, the line between Oakdale and Cooperstown, a distance of 19 miles, was completed and opened for traffic, and in December of the same year the line was completed to Jamestown. The West Coast Construction Company not only constructed the roadbed and the track, but also equipped the railway with rolling stock and built necessary structures, such as water tanks, engine houses, store-houses, turntables, etc. On August 29, 1898, the railway company contracted with the same construction company to construct the line from Jamestown to Sonora, a distance of about 4 miles, and on November 15, 1898, the same construction company secured another contract for the construction of an additional 11 miles from Sonora to Summerville.

On December 24, 1898, it was decided to abandon approximately 9 miles of constructed road between Rosaseo and Chinese and to reconstruct that portion of the line in a better location, the same construction company securing the contract for this work. In 1899 the construction company built the Angels branch line from Jamestown to Angels, a distance of approximately 20 miles. In 1900 the road was practically completed as it is at present located and constructed, and all of the construction work, except some minor structures and a portion of the equipping of the road, was done by the West Coast Construction Company, the president of which was also the then general manager and now the president of the Sierra Railway Company of California.

Several adjustments and settlements with sub-contractors were necessary until in 1903 the total cost of the road, as shown by the company's books, was \$6,152,709.86, or \$81,170.31 per mile of road for 75.80 miles. Of this amount \$2,514,000.00 was represented by bonds and \$3,248,000.00 by capital stock, leaving approximately \$390,000.00 represented by cash. Practically all of the stock and bonds were held by the then general manager of the road, T. S. Bullock, in his capacity as owner and president of the West Coast Construction Company.

The character of the country traversed by the road is for the most part mountainous, though the westerly 11 miles of the main line between Oakdale and Paulsell crosses flat, level, irrigated farm lands in the San Joaquin Valley. From Paulsell to Chinese are found rolling, grazing and brushy foothills, developing near Jamestown into the Sierra Mountains, in which district is located a large area of the great "Mother Lode" mining country. From Jamestown to Tuolumne the road traverses rough, rocky hills, which are used for grazing, and are partly covered with bull pine and scrub oak. The Angels Branch practically follows the "Mother Lode" vein, winding back and forth along steep sidehills of solid rock, on which is found a small amount of scattered timber.

The company operates one passenger and one mixed train each way daily between Oakdale and Tuolumne, and one train each way daily between Jamestown and Angels.

At Oakdale the road connects with the Southern Pacific and the Atchison, Topeka and Santa Fe lines. Both roads run their passenger cars from Oakdale through to Jamestown.

(2) Stocks and Bonds.

The capital stock of the railway company consists of 50,000 shares of common stock, with a par value of \$100.00 each, or a total authorized capitalization of \$5,000,000.00. The total outstanding stock has a par value of \$3,248,000.00. The bonded indebtedness of the company consists of two series of mortgage bonds, each for forty years, as follows:

First series, issued April 12, 1897, being outstanding first mortgage

bonds of \$1,147,000.00, bearing interest at 6 per cent, of an authorized issue of \$1,860,000.00.

Second series, being second mortgage bonds of \$859,000.00, issued September 15, 1904, of an authorized issue of \$860,000.00, bearing interest at 5 per cent.

When the road was incorporated, on February 1, 1897, there was an authorized issue of capital stock of \$5,000,000.00, divided into 50,000 shares of \$100.00 each. One hundred and twenty-four thousand dollars of this amount was subscribed for, or \$1,000.00 for each mile of road proposed to construct. One tenth of the par value of subscribed stock, or \$12,400.00, was paid into the treasury of the corporation. Immediately after the incorporation of the company the board of directors authorized the creation of a bonded indebtedness of \$3,720,000.00, to be divided into two issues, as follows:

1. \$1,860,000.00—forty-year, first mortgage, sinking fund, 6 per cent gold bonds.
2. \$1,860,000.00—forty-year, second mortgage, income 6 per cent gold bonds.

Both mortgages to be secured by all present and future property of the company and by two sinking funds, the first mortgage having priority. These sinking funds were set aside under the following provisions:

First mortgage sinking fund: On April 12th of each year, beginning with April 12, 1899, until the principal is redeemed, the company shall pay to the trustee 5 per cent of the net earnings of the company over and above the operating expenses and fixed charges as a sinking fund for the redemption of the bonds and payment of the interest. The sinking fund to be not less than \$5,000.00 per annum.

Second mortgage sinking fund: On April 12th of each year, beginning with April 12, 1900, 1 per cent of the net earnings shall be set aside as a sinking fund for redemption of principal and payment of interest of second mortgage bonds.

Most of the records of this company were lost in the San Francisco fire of April, 1906, and it is impossible to determine the exact amount of stocks and bonds that were voted to the West Coast Construction Company in payment for the construction of the road, but practically all of the stocks and bonds were held by the West Coast Construction Company.

The first mortgage bonds paid the interest of 6 per cent from the beginning. The interest on the original second mortgage was not paid, and in August, 1903, the directors of the company resolved that in order to pay the debts and contracts of the company for the completion and construction of the railway with its equipment, it would be necessary to create an additional bonded indebtedness of \$860,000.00.

These bonds were to be made payable in forty years from date of issue and to bear interest at 5 per cent per annum. The authorization and issuance of this bond issue was protested at a meeting of the stockholders on October 28, 1903, the protest being based on the following:

First—That the company held in its possession many hundreds of bonds of its former mortgages, all of which could be sold and issued and money obtained therefor, and no necessity existed for an increase in the bonded indebtedness of the company.

Second—That there were then issued and outstanding more than 1,000 bonds secured by second mortgage on all of the property of the company, and that the company obligated itself to create a sinking fund of 1 per cent of the net earnings, and to pay interest at 6 per cent, and that the company had not complied with these provisions, and stated as the reason for its failure to do so that there had been no net earnings of the company. For these reasons the creation of another bonded indebtedness would be a violation of the rights of the holders of the second mortgage bonds, and in view of the condition of the company and the fact that it had such a large amount of unsold and unissued bonds under its prior mortgages, it would be entirely unwarranted in law and beyond the power of the company to do so.

This protest was outvoted, and on September 15, 1904, the new bond issue of \$860,000.00 was authorized, and \$633,000.00 of the new issue was exchanged for \$1,266,000.00 of the old second mortgage 6 per cent bonds at the rate of one of the new bonds for two of the old ones, since which time the interest on the entire bonded indebtedness has been met when due.

The directors of this company on July 28, 1905, amended the articles of incorporation, enlarging the powers of the company and enabling it to guarantee the bonds of any other road whose property it might acquire, own or lease. Immediately thereafter the Yosemite Short-Line Railway Company was incorporated in California to build from Jamestown to the Yosemite Valley, a distance of approximately 60 miles, with a branch line to Hetch Hetchy Valley, a distance of about 10 miles. Construction on this line was started in the latter part of 1905 and construction contracts were entered into between the four following separate corporations for the construction of this road:

First—The Sierra Railway Company of California;

Second—The Yosemite Short-Line Railway Company;

Third—The French Finance Corporation of America;

Fourth—The Tuolumne Construction Company.

The officers of the Sierra Railway were interested in the three latter companies.

Among other provisions in the contract, the Sierra Railway Company of California agreed to guarantee the payment of principal and interest of the Yosemite Short-Line Railway Company's bonds on condition that 6,250 bonds (\$625,000) be issued immediately, and that the Sierra Railway Company of California be the depository of all the bonds and proceeds thereof. The Yosemite Short-Line Railway Company agreed to the provisions of the contract and the French Finance Corporation of America agreed to purchase the bonds from the Tuolumne Construction Company, who were to receive the same in payment for the grading of the road. The president of the Sierra Railway was also the president of this construction company.

The French Finance Corporation of America advanced to the construction company, prior to the issuance of bonds, the sum of \$64,800.00, which was to be considered as the first payment on the bonds. Construction work began in September, 1905, and about 10 miles of roadbed was graded and track was laid for about 6 miles, but in the spring of 1906, immediately subsequent to the earthquake, abruptly ceased and was never resumed, and such track as had been laid has since been taken up and used for other purposes.

The construction of this road was undertaken to reach a large tract of timber land controlled by the president of the Sierra Railway Company of California through the Bullock Lumber Company. The president later sold these timber holdings, and the construction of the road was no longer essential to his purposes.

The attempt to construct this road cost the Sierra Railway Company of California a considerable amount of money, but how much it is impossible to ascertain. The interest on the worthless bonds was paid by the Sierra Railway Company of California, and in 1912 this item amounted to \$16,401.70. This entire venture resulted in a total loss to the company.

Other instances occurred in the history of this company where its treasury was made to carry the burden of its chief officer's private business undertakings, and the conclusion presents itself that the Sierra Railway Company of California to a large extent must be considered as an adjunct to the varied business interests of its president. If as such it served its purpose, it was otherwise only necessary that the road pay operating expenses and interest on funded debt, with dividends on stock an entirely secondary consideration.

(3) Revenues and Expenses.

The revenues and expenses of the railway company for the year ending June 30, 1912, appear in the annual report of the company on file with this Commission, as follows:

OPERATING REVENUES.

| | |
|--|---------------------|
| Freight revenue | \$297,543 60 |
| Passenger revenue | 107,254 07 |
| Excess baggage revenue..... | 1,445 87 |
| Mail revenue | 5,770 13 |
| Express revenue | 11,495 05 |
| Other passenger train revenue..... | 75 00 |
| Switching revenue | 250 00 |
| Revenue from operations other than transportation..... | 2,035 01 |
| Total operating revenues..... | \$425,868 73 |

OPERATING EXPENSES.

| | |
|--|---------------------|
| Maintenance of way and structures..... | \$88,829 45 |
| Maintenance of equipment..... | 38,798 28 |
| Traffic expenses | 4,573 56 |
| Transportation expenses | 87,788 87 |
| General expenses | 17,231 35 |
| Total operating expenses..... | \$237,221 51 |

Net operating revenue, \$188,647.22.

Operating ratio, \$55.70.

Passenger earnings since 1903 have practically been stationary. In 1907 freight revenue reached its highest point since the road began operating, and in 1912 it had almost regained the figure of 1907. The net operating revenue was higher in 1912 than in any previous year and the accumulated surplus exceeded a half million dollars.

Below are the principal traffic figures of 1912 as taken from the company's annual report to the Commission:

PASSENGER TRAFFIC.

| | |
|---|---------------------|
| Number of revenue passengers carried..... | 55,713 |
| Number of passengers carried one mile..... | 1,728,444 |
| Average distance carried, miles..... | 31.02 |
| Total passenger revenue..... | \$107,254.07 |
| Average amount received from each passenger..... | 1.92 |
| Average receipts per passenger per mile..... | .062 |
| Passenger service train revenue per mile of road..... | 1,666.31 |

FREIGHT TRAFFIC.

| | |
|--|---------------------|
| Number of tons carried earning revenue..... | 136,537 |
| Number of tons carried one mile..... | 85,086 |
| Average distance haul of one ton, miles..... | 47.13 |
| Total freight revenue..... | \$297,543.63 |
| Average amount received for each ton of freight..... | \$2.18 |
| Average receipts per ton mile..... | \$.046 |
| Freight revenue per mile of road..... | \$3,933.68 |

The principal commodities transported over this road are products of forest and products of mine. The freight traffic movement during the year 1912 was as follows:

| | |
|------------------------------|-----------------|
| Products of agriculture----- | 5.96 per cent |
| Products of animals----- | 0.43 per cent |
| Products of mines----- | 31.31 per cent |
| Products of forests----- | 39.85 per cent |
| Manufactures----- | 18.72 per cent |
| Merchandise----- | 1.99 per cent |
| Miscellaneous----- | 1.74 per cent |
| Total----- | 100.00 per cent |

Original Book Cost.

The original book cost of this property was not furnished by the company for the reason that all cost records were destroyed in the San Francisco fire in 1906. The Commission's engineering department made an attempt to determine the original cost of the property, but could not arrive at the actual cash outlay which was made to complete and place the property in condition to operate, together with the expenditures for additions, betterments and improvements since the original construction was completed.

The investigation into the books of the company, conducted by the Commission's engineering department, however, has led to results which permit of a close estimate of the actual cash investment being made. It has already been pointed out that in 1900, when the road was practically completed as it stands to-day, the total cost of the property stood on the company's books as \$6,152,709.86, or \$81,170.31 per mile of road for 75.80 miles. The largest part of this book cost was represented by stocks and bonds. The actual cash investment into the property at that time was not more than \$1,257,000.00, or approximately \$16,600.00 per mile, and this figure includes the profits to the West Coast Construction Company. These profits were large. Second-hand rails, for instance, the contracting company in 1897-1898 billed against the railroad company at \$40.00 per gross ton. The price of steel rails reached its lowest level in those years, and new rails could be bought at Pacific coast terminals in 1898 at a little less than \$29.00 per gross ton.

Subsequent to the year 1900 large portions of the earnings were spent in betterments to roadbed and equipment, until to-day the physical value of the property is easily equal to its outstanding debt. This line, therefore, affords a very good example of the type of railroad where the physical property is built up after completion of original construction, entirely out of earnings and without the investment of any additional capital, and where value is put behind securities which were worth little or nothing when issued.

Reproduction Value.

The railway company made an extended attack on the engineering department's estimate, both as to "reproduction value" and "present value." The reproduction value estimate presented by the railway company is \$4,667,090.76. The reproduction value as presented by the Commission's engineering department is \$2,697,589.40, the difference being \$1,969,501.36.

Subsequent to the hearing in this case the chief engineer, who made the inventory and appraisal for the railroad company, was given access to the records and memoranda of this Commission's engineering department, on which unit prices, depreciation and other factors entering into the Commission's engineering department's report were based. A statement was then filed with the Commission by the company, in which it was requested that the Commission's engineering department's estimate of reproduction value be increased \$516,875.81 and the present value increased \$585,453.92.

If the increase were allowed, as requested in this supplemental statement, this Commission's engineering department's estimate would still be \$1,452,625.55 lower than the estimate as originally submitted by the company, and on which there was no contest. The company's objection to the department's estimate was particularly directed to the unit costs used by the department, and inasmuch as the basis for the department's unit costs are fully explained in its report, and the railway company did not present the actual cost of work on any similar piece of construction, except for grading, and which unit costs were secured from the engineering department of this Commission, the objections were based entirely upon the opinion and testimony of its chief engineer, and, further, due to the fact that the railway company conceded by the supplemental statement filed, its estimate of reproduction value was \$1,452,625.55 in excess of what it should be, I will not consider this matter further, except for the item of grading.

At the hearing the unit costs allowed by the engineering department were attacked generally, and after an examination of the records and memoranda of the engineering department on cost data by the company's chief engineer, a supplemental statement was filed requesting increases in the unit costs of grading. The increases asked were based principally upon the actual cost of grading of the California North-eastern Railway. Unit costs of work on this construction were not uniform, but varied, and the highest prices paid were taken by the engineer for the railway company and presented to the Commission in the supplemental statement as the fair prices to be allowed for similar work in estimating the cost of reproducing the property of this company. Some of these prices were high, but the average prices for all

the work done were less than the unit prices allowed by the department, and if the average prices paid on the California Northeastern Railway were applied to the grading quantities of the Sierra Railway, as seems to be requested in the supplemental statement of the company, there would result a reduction of \$65,597.45 below the amount as estimated by the engineering department for grading.

This Commission is anxious at all times to make a fair valuation, and will rectify any mistakes or low valuations when such appear, but in the present case, from all the evidence submitted, I do not believe that a proper showing has been made upon which the department's estimate can be changed. After a careful consideration of all the evidence in the case bearing on the matter of reproduction value, including the supplemental statement filed by the company, I find the "reproduction value," as that term is herein defined, of the operative property of the Sierra Railway Company of California, as of June 30, 1912, to be the sum of \$2,697,589.40.

Present Value.

In the Minnesota Rate Cases, the United States Supreme Court emphasizes the importance of determining a "present value" as distinguished from the "reproduction value." In that case it was not denied that there was no depreciation in fact, but the Master found that the depreciation was more than offset by appreciation in certain items, and allowed the cost of reproduction new without deduction for depreciation for the basis for rate fixing. Mr. Chief Justice Hughes refused to approve of this disposition of the matter, and in delivering the opinion of the court pointed out that "the depreciation in question is not that which has been overcome by repairs and replacements, but is the actual existing depreciation in the plant as compared with the new one." * * * "It would seem to be inevitable that in many parts of the plant there should be such depreciation, as for example in old structures and equipment remaining on hand. And when an estimate of value is made on the basis of reproduction new, the extent of existing depreciation should be shown and deducted." This branch of the subject was concluded as follows: "And when particular physical items are estimated as worth so much new, if in fact they be depreciated, this amount should be found and allowed for. If this is not done, the physical valuation is manifestly incomplete, and it must be regarded as incomplete in this case."

At the hearing in this proceeding the railroad company complained that the engineering department's estimate of present value was unfair to the company in many respects, but as in "reproduction value" nothing other than opinion testimony was given, and as in "reproduc-

tion value," I do not feel that the testimony introduced warrants alteration of the engineering department's estimate.

It is the Commission's aim in all these cases to make findings that are fair and just, not as applied to some average railroad, but to the particular railroad which is the subject of the Commission's investigations. Average unit prices and average percentages of depreciation are of great value as a basis in this work, but the engineering department makes a modification in all cases where conditions are not average.

I find that the "present value," as that term is herein defined, of the operative property of the Sierra Railway Company of California, as of June 30, 1912, is the sum of \$2,432,792.00.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of December, 1913.

EXHIBIT A.

Name of owner, Sierra Railway Company of California; operating company, same; division, entire line; from Oakland to Tuolumne; miles main line track, 56.81; miles branch line, 19.47.

Valuation as of June 30, 1912; W. H. Newell, office compiler; date compiled, February, 1912.

| Class No. | Form No. | Acct No. | Classes | Original cost | Reproduction value | Cond. per cent | Pre-cent value |
|-----------|----------|----------|--|---------------|--------------------|----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds | | \$125,698 55 | | \$262,526 50 |
| 2 | 2 | 3 | Real estate | | | | |
| 3 | 3 | 4 | Grading | | 1,453,416 02 | | 1,718,919 16 |
| 4 | 4 | 5 | Tunnels | | | | |
| 5 | 5 | 6 | Steel bridges and trusses | | 11,814 05 | | 10,133 46 |
| 6 | 6 | 6 | Pile and frame trestles | | 146,271 09 | | 61,335 59 |
| 7 | 7 | 6 | Culverts | | 91,125 48 | | 86,650 38 |
| 8 | 8 | 7 | Ties | | 39,431 18 | | 229,359 91 |
| 9 | 9 | 8 | Rails | | 286,513 41 | | 257,862 87 |
| 10 | 10 | 9 | Frogs and switches | | 10,600 00 | | 9,322 25 |
| 11 | 11 | 10 | Track fastenings and other material | | 94,133 68 | | 87,211 57 |
| 12 | 12 | 11 | Ballast | | 449,768 80 | | 483,307 38 |
| 13 | 13 | 12 | Tracklaying and surfacing | | 103,917 00 | | 103,917 00 |
| 14 | 14 | 13 | Roadway tools | | 8,584 84 | | 7,848 91 |
| 15 | 15 | 14 | Fencing right of way | | 35,840 45 | | 32,727 11 |
| 16 | 16 | 15 | Crossings and signs | | 3,946 74 | | 3,813 40 |
| 17 | 17 | 16 | Interlocking plants | | | | |
| 18 | 18 | 16 | Signal apparatus | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines | | 3,355 50 | | 3,355 50 |
| 20 | 20 | 18 | Station buildings and fixtures | | 34,725 00 | | 33,075 00 |
| 21 | 21 | 18 | Platforms, walks, paving and curb | | 3,340 00 | | 3,154 66 |
| 22 | 22 | 19 | General office buildings and fixtures | | 11,000 00 | | 11,000 00 |
| 23 | 23 | 20 | Shop buildings and engine houses | | 18,220 00 | | 16,338 00 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc. | | 5,208 32 | | 4,902 99 |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures | | 1,675 00 | | 1,490 00 |
| 26 | 26 | 21 | Shop machinery and tools | | 30,575 00 | | 28,415 00 |
| 27 | 27 | 22 | Water stations | | 16,133 30 | | 15,624 15 |
| 28 | 28 | 23 | Fuel stations | | 12,964 80 | | 12,964 80 |
| 29 | 29 | 24 | Grain elevators | | | | |
| 30 | 30 | 25 | Storage warehouses | | | | |
| 31 | 31 | 26 | Dock and wharf property | | | | |
| 32 | 32 | 27 | Electric light plants | | 726 00 | | 726 00 |
| 33 | 33 | 28 | Electric power plants | | 150 25 | | 150 25 |
| 34 | 34 | 29 | Electric power transmission | | | | |
| 35 | 35 | 30 | Gas producing plants | | | | |
| 36 | 36 | 31 | Miscellaneous structures | | 21,010 00 | | 19,520 00 |
| 37 | --- | --- | Total classes 1 to 36, inclusive | | \$3,284,164 46 | | \$3,506,501 84 |
| 38 | 37 | 32 | Engineering, .. per cent, 1 to 36, inclusive | | 164,208 22 | | 164,208 22 |
| 39 | 38 | 33 | Transportation of men and material | | 29,922 73 | | 29,922 73 |
| 40 | 39 | 34 | Rent of equipment | | 11,490 00 | | 11,490 00 |
| 41 | 40 | 35 | Repairs of equipment | | 4,407 00 | | 4,407 00 |
| 42 | --- | 35 1/2 | Farming and operating expenses during construction | | | | |
| 43 | --- | 36 | Injuries to persons | | | | |
| 43 | --- | 36 | Cost of road purchased | | | | |
| 44 | 39 | 37 | Total classes 1 to 43, inclusive | | \$3,494,192 41 | | \$3,716,520 79 |
| 45 | 40 | 38 | Steam locomotives | | 106,510 00 | | 91,339 00 |
| 46 | 41 | 39 | Electric locomotives | | | | |
| 47 | 40 | 39 | Passenger train cars | | 22,100 00 | | 19,890 00 |
| 48 | 41 | 40 | Freight train cars | | 31,150 00 | | 28,087 00 |
| 49 | 42 | 41 | Work equipment | | 12,275 00 | | 10,850 00 |
| 49 | 43 | 42 | Floating equipment | | | | |
| 50 | --- | 43 | Total classes 1 to 49, inclusive | | \$3,666,227 41 | | \$3,867,595 79 |
| 51 | 44 | 44 | Law expenses, .. per cent, classes 1 to 36, inclusive | | 32,841 64 | | 32,841 64 |
| 52 | 44 | 45 | Stationery and printing | | 4,100 00 | | 4,100 00 |
| 53 | 45 | 46 | Insurance | | | | |
| 53 | 45 | 46 | Taxes | | | | |
| 54 | --- | 47 | Total classes 1 to 53, inclusive | | \$3,703,169 05 | | \$3,904,537 43 |
| 55 | 45 | 48 | Interest and commission, .. per cent, classes 1 to 53, inclusive | | 740,633 81 | | |
| 56 | --- | 48 | Other expenditures | | | | |
| 56 | --- | 48 | Contingencies, .. per cent, classes 1 to 53, inclusive | | 185,158 45 | | |
| 57 | 16 | --- | Stores and supplies on hand for use in California | | 38,129 45 | | 35,992 84 |
| 57 | --- | --- | Grand total | | \$4,667,090 76 | | \$3,940,530 27 |
| 57 | --- | --- | Average per mile for main line track | | 61,183 68 | | 51,658 76 |

EXHIBIT B.

Name of owner, Sierra Railway Company of California; operating company, same; division, entire line; from Oakdale to Tuolumne and Angels; miles main line track, 56.81; miles branch line, 19.47; miles yard tracks, etc., 10.23; total, 86.51.

Valuation as of June 30, 1912; Richard Sachse, field inspector and office compiler; date compiled, March, 1913.

| Class No. | Form No. | Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|-----------|---|---------------|--------------------|----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds | | \$98,326 00 | 100 | \$98,326 00 |
| 2 | 2 | 3 | Real estate | | 30 00 | 100 | 30 00 |
| 3 | 3 | 4 | Grading | | 1,126,200 75 | | 1,206,654 52 |
| 4 | 4 | 5 | Tunnels | | | | |
| 5 | 5 | 6 | Steel bridges and trusses | | 8,691 21 | 65 | 5,689 93 |
| 6 | 6 | 6 | Pile and frame trestles | | 67,393 45 | 60 | 40,758 92 |
| 7 | 7 | 6 | Culverts | | 51,816 84 | 76 | 39,455 12 |
| 8 | 8 | 7 | Ties | | 161,720 57 | 48 | 77,625 88 |
| 9 | 9 | 8 | Rails | | 204,004 43 | 71 | 143,927 41 |
| 10 | 10 | 9 | Frogs and switches | | 9,726 44 | 49 | 4,770 43 |
| 11 | 11 | 10 | Track fastenings and other material | | 81,236 26 | 52 | 44,186 05 |
| 12 | 12 | 11 | Ballast | | 55,180 40 | 100 | 55,180 40 |
| 13 | 13 | 12 | Tracklaying and surfacing | | 106,457 16 | 63 | 67,431 30 |
| 14 | 14 | 13 | Roadway tools | | 4,694 80 | 75 | 3,071 11 |
| 15 | 15 | 14 | Fencing right of way | | 23,969 33 | 53 | 12,709 67 |
| 16 | 16 | 15 | Crossings and signs | | 2,557 14 | 66 | 1,683 96 |
| 17 | 17 | 16 | Interlocking plants | | | | |
| 18 | 18 | 16 | Signal apparatus | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines | | 2,843 93 | 66 | 1,879 80 |
| 20 | 20 | 18 | Station buildings and fixtures | | 21,063 80 | 71 | 14,920 72 |
| 21 | 21 | 18 | Platforms, walks, paving and curb | | 5,806 93 | 72 | 4,193 87 |
| 22 | 22 | 19 | General office buildings and fixtures | | 7,375 00 | 73 | 5,382 50 |
| 23 | 23 | 20 | Shop buildings and engine houses | | 10,921 00 | 90 | 9,834 94 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc. | | 3,256 40 | 74 | 2,498 00 |
| 25 | 25 | 21 | Miscellaneous shop buildings and structures | | | | |
| 26 | 26 | 21 | Shop machinery and tools | | 10,319 89 | 76 | 7,898 09 |
| 27 | 27 | 22 | Water stations | | 24,630 00 | 83 | 20,045 40 |
| 28 | 28 | 23 | Fuel stations | | 9,225 50 | 71 | 6,546 45 |
| 29 | 29 | 24 | Grain elevators | | 7,462 80 | 82 | 6,153 43 |
| 30 | 30 | 25 | Storage warehouses | | | | |
| 31 | 31 | 26 | Dock and wharf property | | | | |
| 32 | 32 | 27 | Electric light plants | | | | |
| 33 | 33 | 28 | Electric power plants | | | | |
| 34 | 34 | 29 | Electric power transmission | | | | |
| 35 | 35 | 30 | Gas producing plants | | | | |
| 36 | 36 | 31 | Miscellaneous structures | | 19,180 00 | 72 | 13,793 50 |
| 37 | --- | 1 | Total classes 1 to 36, inclusive | | \$2,125,870 63 | 89 | \$1,894,557 43 |
| 38 | 37 | 32 | Engineering, 5 per cent, 1 to 36, inclusive | | 106,293 52 | 100 | 106,293 52 |
| 39 | 38 | 33 | Transportation of men and material | | | | |
| 40 | 38 | 34 | Rent of equipment | | | | |
| 41 | --- | 35 | Repairs of equipment | | | | |
| 42 | --- | 35 | Earning and operating expenses during construction | | | | |
| 43 | --- | 36 | Injuries to persons | | | | |
| 44 | --- | 37 | Cost of road purchased | | | | |
| 45 | 39 | 37 | Total classes 1 to 43, inclusive | | \$2,232,164 15 | 89 | \$2,000,850 95 |
| 46 | --- | 38 | Steam locomotives | | 91,827 00 | 78 | 71,634 00 |
| 47 | 40 | 39 | Electric locomotives | | | | |
| 48 | 41 | 40 | Passenger train cars | | 27,420 00 | 87 | 23,766 00 |
| 49 | 42 | 41 | Freight train cars | | 34,100 00 | 89 | 27,418 00 |
| 50 | 43 | 42 | Work equipment | | 15,261 00 | 80 | 12,285 80 |
| 51 | --- | 43 | Floating equipment | | | | |
| 52 | --- | 44 | Total classes 1 to 49, inclusive | | \$2,400,772 15 | 89 | \$2,135,974 75 |
| 53 | 44 | 44 | Law expenses, 1 per cent, classes 1 to 36, inclusive | | 21,258 69 | 100 | 21,258 69 |
| 54 | 45 | 45 | Stationery and printing | | | | |
| 55 | 46 | 46 | Insurance | | | | |
| 56 | --- | 47 | Taxes | | | | |
| 57 | --- | 48 | Total classes 1 to 53, inclusive | | \$2,422,030 84 | 90 | \$2,157,233 44 |
| 58 | 45 | 48 | Interest and commission, 5 per cent, classes 1 to 53, inclusive | | 121,101 53 | 100 | 121,101 53 |
| 59 | --- | 49 | Other expenditures | | | | |
| 60 | --- | 50 | Contingencies, 5 per cent, classes 1 to 53, inclusive | | 121,101 53 | 100 | 121,101 53 |
| 61 | 46 | --- | Stores and supplies on hand for use in California | | 33,355 50 | 100 | 33,355 50 |
| 62 | --- | --- | Grand total | | \$2,697,589 40 | 90 | \$2,432,792 00 |
| 63 | --- | --- | Average per mile for main line track | | 35,364 38 | 90 | 31,892 92 |

DECISION No. 1171.

IN THE MATTER OF THE APPLICATION OF WEST COAST GAS COMPANY FOR PERMISSION TO CHANGE THE MINIMUM RATE PER MONTH FOR GAS FURNISHED ITS PATRONS AT NEWPORT BEACH, CALIFORNIA.

Application No. 794.

Decided December 30, 1913.

Held, Application of West Coast Gas Company to establish a minimum rate of \$1.00 per month for gas served in the city of Newport Beach, denied.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by West Coast Gas Company for authority to change the minimum rate for gas in the city of Newport Beach.

The allegation in the application is that the minimum now charged in said city is 50 cents per month from October 1st to April 1st, and \$1.00 per month the remainder of the year. Applicant supplies gas to the cities of Newport Beach and Huntington Beach, and some other adjacent territory.

The officers of applicant testified that the rates on file with this Commission provide for a \$1.00 minimum charge to all consumers, but that a manager in Newport Beach had, without authority, reduced the minimum in that town to 50 cents per month from October 1st to April 1st, and that it was the purpose of this application to restore the minimum in Newport Beach to \$1.00 for the whole year so that the minimum would be uniform over the entire system.

A careful inspection of the rate schedules of applicant on file with this Commission shows that such schedules provide for no minimum whatever on any part of the system of applicant. Therefore, if any minimum is being charged any consumer by applicant, such charge is unlawful, and if it is the purpose to charge a \$1.00 minimum to all of the consumers of applicant an application should be made therefor to this Commission.

Should this present application be granted it would result in a minimum of \$1.00 per month being established for only a portion of applicant's consumers, which would be manifestly unfair.

I recommend that this application be dismissed and submit herewith the following form of order:

ORDER.

Application having been made by West Coast Gas Company for an order authorizing an increase in the minimum charge by applicant for the delivery of gas in the city of Newport Beach from 50 cents per month during the months from October 1st to April 1st of each year to \$1.00 per month the whole year, and a public hearing having been held and it appearing to the Commission that there is not now any legal minimum shown on any schedule of rates on file with this Commission and that therefore no minimum can legally be charged by applicant to any of its consumers, and that it would be unfair and unjust to establish a minimum of \$1.00 per month in the city of Newport Beach where such minimum did not obtain as to other consumers, and that, therefore, this application should be dismissed,

It is hereby ordered that the application herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1913.

DECISION No. 1172.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO VALLEY ELECTRIC RAILROAD COMPANY FOR AN ORDER MODIFYING THE ORDER OF THE COMMISSION OF DATE AUGUST 13, 1912, WHEREIN THE SAID COMPANY WAS GRANTED PERMISSION TO SELL AND ISSUE THIRTY THOUSAND SHARES OF PREFERRED STOCK AND SEVEN THOUSAND FIVE HUNDRED SHARES OF COMMON STOCK.

Application No. 75.

Decided December 30, 1913.

Supplemental order, authorizing applicant (1) to issue certain preferred stock of the par value of \$3,159.55 in payment of expenses previously incurred; (2) to construct the first unit of its line from Dixon to a point of connection with the Oakland, Antioch and Eastern Railway; (3) increasing applicant's monthly allowance for current expenses from \$1,000.00 to \$1,250.00 per month.

Arthur C. Huston, for Applicant.

REPORT OF THE COMMISSION.
SECOND SUPPLEMENTAL OPINION.

EDGERTON, *Commissioner*.

We are asked to modify the orders heretofore made herein to permit the following:

1. The payment of current expenses by applicant in a sum not to exceed \$1,250.00 per month;

2. The payment of said expenses from money derived from the proceeds of promissory notes on hand as well as from notes hereafter taken for the sale of stock;

3. That in addition to said general expenses, applicant be allowed to expend for surveying the located line from the town of Dixon south to its connection with the Oakland, Antioch and Eastern Railway, including field and office work, preparation of maps, profiles, estimates, right of way plans, etc., \$700.00;

4. For a similar location survey from the town of Dixon north to the city of Woodland, approximately, \$1,300.00;

5. For drawing standard plans for road, track, trestles, culverts, fences, overhead construction, etc.; specifications to be used with contracts for grading, trestles, culverts, overhead, fences, ties and rail, \$500.00;

6. For the services of a competent man to gather data of the probable freight and passenger traffic and other business to be received by this road when constructed and operated, \$300.00;

7. For permission to pay certain items of expenditure, aggregating \$1,647.49;

8. For authority to issue preferred stock of applicant to certain persons who expended money on behalf of applicant before its incorporation; and

9. We are asked now to authorize applicant to build and equip one unit of its railroad system at a cost of \$265,000.00.

Applicant has been limited by an order of this Commission to \$1,000.00 per month for current expenses, but a sufficient showing has now been made to warrant the increase of this amount to \$1,250.00. The source from which this money must be obtained was limited to cash or notes received after the rendition of the order. It appears now that this source may not be adequate, and that no injury will result if expenses be paid from the proceeds of any promissory notes in the possession of applicant.

In the supplemental order of September 27, 1913, applicant was ordered to file a detailed statement of unpaid obligations not included in the statement of expenses covering the period up to August 31, 1913. Such detailed statement has now been made, showing a total of

\$1,647.49, and request is made that the amounts therein contained be allowed to be paid. An examination of these items shows that they are proper items of expense, and therefore should be allowed.

Prior to and for a time after the incorporation of applicant, certain men were active in the promotion of the railroad project for which applicant was incorporated. During such activity they expended, on behalf of the project, various sums, totaling \$3,159.55, which they now ask this Commission to allow applicant to pay in par of preferred stock.

It is evident that these men did expend from their own resources the amounts named, and the evidence shows that the board of directors of applicant has allowed these various sums as constituting obligations in favor of these men. Therefore, I think this request should be granted and applicant be authorized to issue preferred stock at par in settlement.

Application is now made to permit the building of one unit of electric railroad, 12½ miles in length, between the town of Dixon, Solano County, California, and a connection with the Oakland, Antioch and Eastern Railway due south of Dixon.

The original order herein contained the following provision:

“Construction of the railroad shall not be entered upon, nor liability created, nor money paid out, except for commissions as aforesaid until there shall be in the hands of the company from the sale of stock \$750,000.”

The evidence shows that on December 1st there was in the hands of applicant from the sale of stock, \$93,144.02, and not to exceed \$1,000.00 has been expended since; and approved bankable promissory notes of the face value of \$211,261.55. Application is now made to modify the original order herein so as to permit the building at this time of the unit of road above mentioned, notwithstanding that there is not in the hands of applicant from the sale of stock \$750,000.00. The estimate of cost for the construction of this unit is as follows:

| | |
|---|--------------|
| Grading, 115,500 cubic yards at 20 cents----- | \$23,100 00 |
| Trestles, 450 lineal feet at \$12----- | 5,400 00 |
| Culverts, 1,200 lineal feet at \$3----- | 3,600 00 |
| Track construction, 12½ miles at \$10,600----- | 132,300 00 |
| Road crossings, 15 miles at \$100----- | 1,500 00 |
| Fence, 13 miles at \$300----- | 3,900 00 |
| Overhead, 12½ miles at \$3,000----- | 37,500 00 |
| | <hr/> |
| Contingencies, engineering, general expenses, etc., 10 per cent | \$207,300 00 |
| | <hr/> |
| Equipment, 2 motors and 1 trailer----- | 37,000 00 |
| | <hr/> |
| | \$265,000 00 |

The last item of equipment—two motors and one trailer, \$37,000.00, may be eliminated by reason of an arrangement with an existing road,

whereby the equipment of the latter will be used in operation over this unit.

The evidence shows that this unit will run through a well settled community, and that with the possibilities for freight and passenger traffic there is a reasonable probability of the successful operation of this unit, especially if favorable traffic arrangement can be made with the railroad with which it connects. Applicant's officers state that they propose to have a definite, binding arrangement by which they can dispose of the \$211,261.55 of notes now on hand before the entering into of any contract for the construction of this road so that with the cash now on hand and the cash to be received from these notes there will be no question of the ability to pay for the construction work as it proceeds.

The cash now in the hands of applicant is drawing no interest and in view of the fact that the unit of road to be constructed can be operated before the completion of this whole railroad project, I believe this application should be granted.

Applicant has secured contracts for all of the rights of way of this 12½ miles of road, except 2 miles thereof, and the testimony shows that the balance of this right of way will be acquired at a cost not to exceed \$3,000.00.

Applicant requests permission to expend the following:

| | |
|--|----------|
| For surveying located line between the town of Dixon south to connection with the Oakland, Antioch and Eastern Railway | \$700 00 |
| For a similar survey from Dixon to Woodland----- | 1,300 00 |
| For standard plans for road, track, trestles, culverts, fences, overhead construction, etc., specifications to be used with contracts for grading, trestles, culverts, overhead, fences, ties and rail ----- | 500 00 |

It appears that the foregoing items are proper to be expended for the services and data to be obtained therefor, and I recommend that they be allowed.

I submit herewith the following form of order:

SECOND SUPPLEMENTAL ORDER.

Application having been made by Sacramento Valley Electric Railroad Company for an order modifying the orders heretofore made herein, in certain particulars, and a hearing having been had and it appearing to the Commission that said application should be granted,

It is hereby ordered that the orders heretofore made herein are modified to the following extent:

Sacramento Valley Electric Railroad Company is hereby authorized to pay off and discharge these certain items of indebtedness as shown in detail on page 4 of the application filed with this Commission on October 27, 1913, and to expend for current expenses a sum not to exceed \$1,250.00 per month, provided that said expenses shall be paid from

the proceeds of any notes in the possession of applicant, and to make in addition the following expenditures:

1. For surveying located line from the town of Dixon south to connection with the Oakland, Antioch and Eastern Railway, \$700.00;
2. For a similar survey between the towns of Dixon and Woodland, \$1,300.00;
3. For standard plans for road, track, trestles, culverts, fences, overhead construction, etc., specifications to be used for grading, trestles, culverts, overhead, fences, ties and rails, \$500.00.

Applicant is hereby further authorized to construct its road between the town of Dixon due south to a connection with the Oakland, Antioch and Eastern Railway, at a cost not to exceed the following estimate:

| | |
|---|--------------|
| Grading, 115,500 cubic yards at 20 cents----- | \$23,100 00 |
| Trestles, 450 lineal feet at \$12----- | 5,400 00 |
| Culverts, 1,200 lineal feet at \$3----- | 3,600 00 |
| Track construction, 12½ miles at \$10,600----- | 132,300 00 |
| Road crossings, 15 miles at \$100----- | 1,500 00 |
| Fence, 13 miles at \$300----- | 3,900 00 |
| Overhead, 12½ miles at \$3,000----- | 37,500 00 |
| | <hr/> |
| | \$207,300 00 |
| Contingencies, engineering, general expenses, etc., 10 per cent-- | 20,700 00 |
| | <hr/> |
| | \$228,000 00 |
| Equipment, 2 motors and 1 trailer----- | 37,000 00 |
| | <hr/> |
| | \$265,000 00 |

Provided, however, that before entering into any contract of \$1,000.00 or more, for the construction of said road or for the acquisition of materials or service therefor, such contract shall be submitted to and obtain the approval of this Commission.

Sacramento Valley Electric Railroad is further authorized to issue preferred stock at par to the following persons in the amount set opposite their names, to wit:

| | |
|---|------------|
| C. L. Donohoe, president, to September 30, 1912----- | \$1,287 15 |
| C. L. Donohoe, president, October, 1912----- | 129 20 |
| L. P. Klemmer, director, from June, 1911, to November, 1912--- | 207 90 |
| H. W. Manor, vice-president----- | 190 00 |
| J. Reith, Jr., treasurer, from April, 1911, to September, 1912--- | 665 05 |
| E. L. Sisson, secretary, from April, 1912, to September, 1912--- | 425 50 |
| A. C. Huston, attorney, from April, 1911, to September, 1912--- | 254 75 |

Provided, that immediately upon the issue of such stock said persons shall give to said company receipts in full for the above amounts. Except in the particulars herein in this order named, all existing orders herein shall remain in full force and effect.

The foregoing second supplemental opinion and order are hereby approved and ordered filed as the second supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1913.

Decisions Nos. 1173, 1174, 1175, grade crossings; not printed. See end of volume.

DECISION No. 1176.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR AUTHORITY TO ISSUE ITS FIRST MORTGAGE FIVE PER CENT SINKING FUND FORTY-YEAR GOLD BONDS TO AN AMOUNT OF THE FACE VALUE OF THE PRINCIPAL OF SUCH BONDS SUFFICIENT AT THE PRICE AT WHICH SAID BONDS MAY BE SOLD TO NET THREE MILLION NINE HUNDRED AND SEVENTY-ONE THOUSAND SEVEN HUNDRED AND THIRTY-ONE DOLLARS.

Application No. 357.

Decided December 30, 1913.

Supplemental order authorizing applicant to pledge \$225,000.00 face value of bonds, heretofore authorized, to be sold, as security for a note of the face value of \$150,000.00, proceeds of said note to be used for purposes specified in prior order.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

This Commission having, on September 3, 1913, made an order authorizing applicant to sell its first mortgage five per cent forty-year sinking fund gold bonds of the face value of \$4,411,000.00 under the conditions and for the purposes therein specified, and Great Western Power Company having applied for an order of this Commission permitting said company to hypothecate 225 of the bonds heretofore authorized to be sold by said order, said 225 bonds of the aggregate face value of \$225,000.00 to be pledged as security for a promissory note issued to the Old Colony Trust Company of Boston, Massachusetts, said note to be of the face value of \$150,000.00 and to bear interest at the rate of 6 per cent per annum, the term of which note shall not exceed one year from the date of this order and the money derived from said note to be used for the purposes specified in the Commission's said order of September 3, 1913,

It is hereby ordered that Great Western Power Company be, and it hereby is authorized to pledge 225 of its first mortgage five per cent sinking fund forty-year gold bonds, the same being a part of the bonds heretofore authorized to be sold by an order of this Commission in this proceeding on September 3, 1913, said 225 bonds of the aggregate face value of \$225,000.00 to be pledged for a note to be issued by applicant to the Old Colony Trust Company of Boston, Massachusetts, said note

to be for a loan of \$150,000.00, to be issued for a term not exceeding one year from the date of this order and at a rate of interest not to exceed 6 per cent per annum, and the money derived from said note to be applied to the purposes specified in the Commission's order heretofore made in this proceeding on September 3, 1913;

And it is further ordered that upon the return to the treasury of applicant of the bonds herein authorized to be pledged the same may be sold in accordance with the provisions of the Commission's order heretofore made on September 3, 1913.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1913.

DECISION No. 1177.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-OREGON POWER COMPANY TO FIX ITS REGULAR RATES FOR ELECTRIC SERVICE IN THE TOWN OF SISSON, SISKIYOU COUNTY, CALIFORNIA.

Application No. 795.

Decided December 31, 1913.

Application for permission to establish regular schedule of rates in the town of Sisson in lieu of rates previously charged before plant was purchased, granted.

Alex J. Rosborough, for Applicant.

C. J. Luttrell, for Town of Sisson.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

On may 24, 1913, the Commission made its order in the matter of Application No. 447, being a joint application by George H. Johnson and California-Oregon Power Company in which the former requested permission to sell and the latter requested permission to purchase a certain electric plant in the county of Siskiyou, then owned by said George H. Johnson. The said order of the Commission granted permission for the sale and purchase of said electric plant as requested subject to the following conditions:

"1. The price of \$15,000 agreed upon shall not be held as binding upon this Commission, or any other public authority, in any rate fixing inquiry.

2. This transfer shall not be used to increase any of the rates to be charged to the patrons of George H. Johnson; and if, after

analysis by this Commission, the rates offered by the California-Oregon Power Company to be charged to the patrons which have heretofore taken service from the system of George H. Johnson shall be found to be in excess of the rates heretofore accorded by said George H. Johnson to said patrons, then the lower rate accorded by said George H. Johnson shall be made to apply, and any greater amount heretofore collected by said California-Oregon Power Company shall in each instance be refunded on the order of this Commission; and pending a determination of this question the rates heretofore charged by said George H. Johnson shall be and remain in effect as the only legal rates to be charged by the California-Oregon Power Company."

For the purpose of enabling the California-Oregon Power Company to legally consummate the purchase of the said Johnson plant, in accordance with the Commission's said order in the matter of said Application No. 447, the present application was filed by the California-Oregon Power Company to establish its contention that it had, in effect, complied fully with the conditions imposed in the Commission's order above referred to.

The material facts appear to be as follows:

As early as 1908 applicant is said to have begun negotiations for the purchase of the electric plant of George H. Johnson, but owing partially to litigation which involved certain water rights or other property of said Johnson, and partially for other reasons, the final negotiations between the applicant and George H. Johnson leading up to an actual transfer of the property were not entered into until November or December, 1912. About this time applicant became aware of the provisions of section 51, Public Utilities Act, which required the prospective seller and purchaser to obtain permission from this Commission before the said sale and purchase could be consummated and the ownership of the property transferred. Accordingly, on or about January 5, 1913, the said George H. Johnson and California-Oregon Power Company made formal joint application to the Commission, which application and the Commission's order in accordance therewith have been hereinbefore referred to.

Some time prior to January 1, 1913, the rates charged by George H. Johnson in the town of Sisson were changed to conform to those charged by the California-Oregon Power Company, and these rates were still in effect on May 24, 1913, when the Commission issued its order in the matter of said Application No. 447.

It is evident that the revised schedules, adopted by said George H. Johnson some time prior to January 1, 1913, in numerous instances resulted in increased rates to the consumers of electric energy in the town of Sisson, but it is also clear that the town of Sisson alone had jurisdiction over such rates, and that said George H. Johnson was not

required to make application to this Commission for permission to put into effect the new schedules corresponding to those of applicant.

In view of the above facts it is apparent that the Commission's order in the matter of Application No. 447 referred only to those rates which were being charged by the said George H. Johnson at the time Application No. 447 was filed with the Commission.

In as much as the present rates of applicant are the same as those charged by said George H. Johnson at and previous to the time when said Application No. 447 was filed, and it appearing that the present schedules of rates charged by applicant have been adopted by the town board of trustees of the town of Sisson for the remainder of the fiscal year ending April 30, 1914, I would recommend that the application be granted and submit herewith the following form of order:

ORDER.

California-Oregon Power Company having applied to this Commission for permission to establish its regular rates for electric service supplied in the town of Sisson and vicinity, and it appearing that the purpose of California-Oregon Power Company in making said application was to permit a former order of this Commission made in the matter of Application No. 447 to become effective, and it further appearing that the said rates do not constitute an increase over the rates previously charged by George H. Johnson, the former owner of the plant supplying the town of Sisson with electric energy, and that said rates have been adopted by the town of Sisson, and a public hearing having been duly held and the Commission being of the opinion that applicant has complied with Condition No. 2 as set forth in the Commission's order in the matter of Application No. 447,

It is hereby ordered that, in so far as the permission requested in the present application of California-Oregon Power Company to establish its regular schedules of rates for electric service in the town of Sisson is necessary for the purpose of permitting the Commission's previous order made in the matter of Application No. 447 to become effective, said permission be and the same is hereby granted, subject to the following conditions, viz:

It is specifically understood that this order is not to be construed as an approval of the rates of California-Oregon Power Company, or as in any way considering or referring to such rates except in so far as the said rates are involved in the question of specific compliance by applicant with the conditions set forth in the order of this Commission made in the matter of said Application No. 447.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

DECISION No. 1178.

IN THE MATTER OF THE APPLICATION OF COVINA CITY
WATER COMPANY FOR PERMISSION TO INCREASE
RATES.

Application No. 417.

Decided December 31, 1913.

Held, That the present rates of applicant are unreasonably low in so far as they do not provide a fair return on present plant investment of applicant. Compensatory rates prescribed.

Held, Applicant ordered to meter all existing service connections within ninety days, and hereafter to make all service connections and meter installations at its own expense.

W. A. Barnhill and Gibson, Dunn & Crutcher, for Applicant.

Gail & Pence, for City of Covina.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Covina City Water Company for permission to increase the rates charged consumers in the city of Covina for the delivery of water.

The rates now being charged are:

Inside city—

Flat rate: \$1.00 per month, with various additional charges as per city ordinance effective July 1, 1911.

Metered rate: \$1.00 per month for 1,000 cubic feet or less.

8 cents per 100 cubic feet for the next 2,000 cubic feet.

3 cents per 100 cubic feet for all over 3,000 cubic feet.

Outside city—

Flat rate: \$1.00 per month, with various additional charges as per Covina city ordinance effective July 1, 1910.

Metered rate: \$1.00 per month for 800 cubic feet or less.

10 cents per 100 cubic feet for all excess.

We are asked by applicant to permit the charging of the following rates, both inside and outside the city:

Flat rate: \$1.25 per month.

Metered rate: \$1.25 per month for 800 cubic feet or less.

10 cents for each additional 100 cubic feet.

On the 22d day of January, 1913, the electors of the city of Covina voted to surrender its power of control over water corporations to the Railroad Commission, and after a hearing and arguments had before the Commission on the question of whether or not such election was effective to vest in this Commission the power of control over water

corporations in said city, it was ordered by this Commission that such jurisdiction be assumed, and thereafter a hearing was had on the merits of said application in the city of Covina, at which both applicant and the city of Covina were represented.

A valuation of the plant of applicant was made by engineer employed by it and a valuation was also made by the engineers of this Commission.

It appears that certain of the lots located in the city of Covina were formerly part of larger tracts of land to which there had been made appurtenant certain quantities of water. That upon the subdivision of these lands into the present lots, the water appurtenant thereto was taken by applicant, placed in reservoirs, and for a number of years has been delivered regularly as a domestic water supply through the pipes of applicant to the consumers of the city of Covina, among whom are occupants of the lots above mentioned.

The contention is made on behalf of the owners of these lots, that they own the water theretofore appurtenant to this land and that, inasmuch as the company has taken this water and now delivers it to them, that the company is entitled only to a fair payment for the service rendered in conducting their water through its pipes.

On the other hand, applicant contends that this Commission should not attempt to decide the question of the title to said water—which, by the way, applicant claims rests in it—but that the Commission should consider, for rate fixing purposes, that the water is in the possession of applicant and is being delivered for the use of all of the consumers of the city of Covina, and that all of such consumers should pay a like rate, which rate should be based upon a fair return on the property used in such service.

Mingled with the water just mentioned is other water obtained by applicant through stock ownership in various water companies.

Manifestly, this is not the tribunal set up by the State to determine the title to water. This function is left to the courts and while it may be necessary at times in certain proceedings for this Commission to satisfy itself that a company is reasonably sure of retaining the use and benefit of property where, for instance, such property is made security for bond and stock issues, yet I believe the sound rule to be that, finding property in the possession of a public utility which is being used for the public service, until such time as the courts may dispossess the utility of such property this Commission should treat it as belonging to the utility.

It is in evidence and is admitted by representatives of applicant that a very considerable percentage of the service connections and meters now in use on the system of applicant were paid for by consumers. The practice was as follows: The consumer would approach the company for service and would be informed that in order to obtain service he, the

consumer, must pay for the cost of the service connection and the meter. Agreeing to this, the company purchased the necessary pipe and materials, installed the same and sent the bill therefor to the consumer, who, thereupon, paid the bill.

The city, on behalf of the consumers, contends: First, that these service connections and meters are now owned by these consumers and, therefore, should not be added to the plant value of applicant upon which rates are to be fixed. Furthermore, that if it be held that these service connections and meters are now owned by applicant, that because the cost thereof was donated by the consumers applicant should not be entitled to earn a return on the amount represented by such service connections and meters. As the city puts it: "To allow applicant to do this would mean that the consumer must pay an interest return upon the money which he himself gave the company."

As to the ownership, there is no evidence of any claim of ownership by the consumers, except the mere fact that they paid the bill representing the expenditure by the company at the time of the installation of these service connections and meters. The company has exercised every form of control which it would do if it had placed these services and meters in at its own expense. Repairs were made by the company, trenches were made in the streets by applicant under its franchises in order to make these connections, and in view of the fact that it would be unlawful for the consumer, without a franchise, to dig up the public streets and lay pipes therein, it would seem clear that it can not now be maintained that service pipes in the streets are owned by consumers who had not, nor have now, any lawful right to place or maintain such pipes in such streets.

It would seem altogether to the benefit of the consumer that it be held that all service connections and meters are the property of the public utility operating the same, as otherwise repairs and replacements would, of necessity, have to be made by the consumer, and in any proceeding to regulate the public utility, the regulating body would have no control over the service connections and meters, as they would belong to private individuals.

It is unnecessary to discuss the question of whether or not applicant is entitled to add the value of these service connections and meters to plant, because as will be shown hereinafter, the granting of applicant's request herein would be justified, even though value of these connections and meters was excluded from consideration.

The engineer of applicant found depreciated reproduction, or present value of \$159,798.00. The engineers of this Commission found such value to be \$78,150.00, exclusive of any value placed upon existing service connections and meters, and various intangible items included by the company. The Commission's engineers also found an annual

depreciation of \$2,536.00; maintenance and operation, \$5,710.00, and interest at 6 per cent on present value of plant \$4,689.00, making a total necessary gross annual earning of \$12,935.00. The rates hereinafter found to be reasonable, and which are the rates asked for by applicant, with some minor adjustments, are estimated to produce \$13,035.00.

At the hearing, applicant requested that if it was compelled to hereafter install service connections and meters at its own expense, and thus be prevented from collecting therefor a sum which was estimated to be \$880.20 per year, that the application herein be amended so as to request a minimum charge of \$1.50 per month, instead of \$1.25 per month, to make up to applicant for this deprivation of income from the installation of service connections and meters.

This latter request seems wholly illogical. It has been repeatedly held by this Commission that, except in unusual cases, water companies should install service connections and meters at their own expense, and assuming that an ordinary service connection and meter would cost on an average about \$15.00, the minimum rate of \$1.25 per month which would produce an income of \$15.00 per year, would not only pay interest, depreciation and operating expenses on such service connections and meters, and the slight general increase of expense, but in addition would add to the profit of the company. Hence, as each new consumer is added, even though the company pays for the service connection and meter, the total condition of the company is greatly benefited, and I can see no reason whatever for allowing an additional rate because the company is compelled to pay for these installations.

During the first eight months of 1913 the average number of connections provided with meter producing revenue was 609; and of flat rate connections 72. The total income from the metered consumers during that period was \$6,105.00. From the flat rate users, \$808.00.

It appears, therefore, that the unmetered consumption is a relatively unimportant source of revenue. During the eight month period the number of flat rate users decreased from 75 to 66 and the applicant has intimated an intention to meter all consumers. The average monthly returns from unmetered or flat rate consumers during this period was \$1.41.

Flat rates are in effect within the city of Covina in accordance with an ordinance made effective July 1, 1911. The flat rates in effect outside are the same as those established by a city ordinance effective July 1, 1910, which rates were allowed to be collected by the supervisors of Los Angeles County. These outside flat rates were not changed when the latter ordinance of the city went into effect, somewhat modifying the rates collected inside the city limits. During August, 1913, there were 66 connections in operation paying under flat rates.

The Commission has always favored the sale of water by meter

measurement in any community where the supply available may be considered limited. This company should be ordered to meter the remainder of its service within ninety days, and meantime be allowed to charge \$1.25 per month flat rate.

A service rendered by applicant to the city of Covina for use of water in connection with fires is not first-class service, and therefore, I do not consider an increase in this rate justified. If applicant will produce good service to the city for fire purposes, this Commission will consider an increase in this rate commensurate with the service given.

I submit herewith the following form of order:

ORDER.

Application having been made by Covina City Water Company for permission to increase the rates charged consumers for the delivery of water, and a public hearing having been had, and the Commission being fully apprised in the premises, it is hereby found as a fact that the rates now being charged consumers by said company are unreasonable and unjust, and that the following rates are just and reasonable rates to be charged consumers by said company, to wit:

Flat rate: For each connection, \$1.25 per month.

Metered rate: For the first 800 cubic feet or less, \$1.25 per month.

For all water in excess of 800 cubic feet per month up to 3,000 cubic feet per month, 10 cents per 100 cubic feet.

All over 3,000 cubic feet per month, 5 cents per 100 cubic feet.

Sprinkling and special sales, 10 cents per 100 cubic feet.

Water furnished to and rental of fire hydrants, \$60 per annum.

It is hereby further found as a fact that it is just and reasonable that all existing services of Covina City Water Company be metered and that service connections and meters should be installed at the expense of said company; and basing its order upon the foregoing findings of fact, and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that the Covina City Water Company is hereby authorized and permitted to charge the rates hereinbefore found to be reasonable. Said rates to become effective upon the filing of a schedule embodying the same with this Commission; and

It is hereby further ordered that within a period of ninety days from the date of this order each and all of the existing service connections of said company be metered at the expense of the company; and

It is hereby further ordered that from and after the date of this order all services shall be metered, and all service connections and meters shall be installed at the expense of the company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

DECISION No. 1179.

IN THE MATTER OF THE APPLICATION OF UNITED LIGHT,
FUEL AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCK.

Application No. 428.

Decided December 31, 1913.

Applicant authorized to issue stock of the par value of \$197,000.00, proceeds to be used to reimburse applicant for money previously expended, and for further construction and additions to plant.

Read G. Dilworth, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

United Light, Fuel and Power Company is engaged in furnishing electric energy for lighting purposes and steam for heating purposes in and about the cities of San Diego and Coronado in San Diego County, California.

Applicant is capitalized for \$500,000.00 divided into 500 shares of stock, all common, of the par value of \$1,000.00 per share. Applicant has already issued stock of the par value of \$50,000.00. There are no bonds outstanding and the company has no indebtedness other than that hereinafter specified and which it is intended shall be extinguished from the proceeds of the stock herein applied for.

Subsequent to December 1, 1911, applicant had made certain expenditures for the construction of an underground steam heating distribution system in San Diego and of an electric lighting distribution system in Coronado, as follows:

EXPENDITURES FOR STEAM HEATING SYSTEM.

Construction—

| | | |
|--|-------------|-------------------|
| Steam heating distribution system mains..... | \$85,039 65 | |
| Service lines | 5,920 62 | |
| Steam meters | 737 50 | |
| Miscellaneous expenditures | 450 00 | |
| | | <hr/> \$92,147 77 |

Uncompleted construction jobs—

| | | |
|--|-------------|-----------------|
| Steam heating distribution system mains..... | \$38,055 89 | |
| Steam heating distribution system service lines..... | 1,781 37 | |
| | | <hr/> 39,837 26 |

Material and supplies—

| | | |
|--|----------|----------------|
| Steam meters | \$673 66 | |
| Miscellaneous material and tools | 2,408 42 | |
| | | <hr/> 3,082 08 |

| | |
|---------------------------|--------------|
| Total steam heating | \$135,067 11 |
|---------------------------|--------------|

77—RD

FOR ELECTRIC LIGHTING SYSTEM.

Construction—

| | | |
|-------------------------------|-------------|--------------------|
| Electric lines ----- | \$14,400 93 | |
| Electric meters ----- | 2,950 99 | |
| Transformers ----- | 406 00 | |
| Miscellaneous equipment ----- | 1,352 70 | |
| | | \$19,110 62 |

Uncompleted construction jobs—

| | | |
|---------------------------------------|----------|-----------------|
| Electric street lighting ----- | \$137 04 | |
| Ground secondary lines—Coronado ----- | 97 94 | |
| | | \$234 98 |

Materials and supplies—

| | | |
|---------------------------------|----------|---------------|
| Electric meters and poles ----- | \$336 16 | |
| Transformers ----- | 157 30 | |
| | | 493 46 |

Total electric lighting ----- **\$19,839 06**

Grand total, steam and electric ----- **\$154,906 17**

Applicant contemplates making a further expenditure from the steam heating distribution system in San Diego, as follows:

New 15-inch underground steam heating system pipe line connecting with present system at E and Arctic streets, extending south on Arctic street to F street, thence east on F street to Third street, connecting there with present system, approximate length 2,550 feet, estimated cost -----

42,000 00

Total ----- **\$196,906 17**

In the present application as amended, United Light, Fuel and Power Company asks for an order of this Commission authorizing it to issue at par capital stock of the aggregate par value of \$198,000.00.

I find that in one instance in estimating the proposed expenditures upon the steam plant at San Diego, applicant has duplicated an item of \$1,000.00. I shall recommend, therefore, that applicant be permitted to issue stock of the aggregate par value of \$197,000.00 instead of \$198,000.00, as requested in the application.

The items which go to make the estimates above specified were presented in detail, and I am of the opinion that the expenditures are proper and that they should be allowed.

It will be noted, however, that a portion of the proceeds from the sale of the stock herein applied for is to be used in the construction of a steam heating distribution system. A steam heating plant is not defined, either in the constitution of this State or in the Public Utilities Act, to be a public utility. We have here, therefore, a situation in which a public utility is asking for permission to issue stock, the proceeds of which are to be used in part for utility purposes and in part for non-utility purposes.

This situation was heretofore presented to the Commission in Application No. 311—being application of Farmers' Warehouse Company

for an order authorizing the issuance of stock. In its decision upon this application, reported in Volume 2, California Railroad Commission Decisions, 124, the Commission authorized Farmers' Warehouse Company to issue stock, although the proceeds would be applied to non-utility purposes.

I recommend that the same procedure be followed upon the present application and submit herewith the following form of order:

ORDER.

United Light, Fuel and Power Company having applied to this Commission for an order authorizing it to issue its capital stock of the aggregate par value of \$198,000.00, the proceeds to be used for the purposes hereinafter specified;

And a public hearing having been held upon this application, and it appearing to the Commission that the purposes for which the proceeds derived from the stock herein applied for are to be used are not, in whole or in part, chargeable to operating expenses or to income;

It is hereby ordered, that United Light, Fuel and Power Company be and it hereby is authorized to issue its capital stock of the aggregate par value of \$197,000.00 upon the following conditions and not otherwise, to wit:

(1) The stock herein authorized to be issued shall be sold so as to net applicant the par value thereof.

(2) The proceeds derived from the stock herein authorized to be issued shall be used for the following purposes:

(a) To reimburse applicant for expenditures made in the construction and installation of an underground steam heating distribution system in San Diego and an electric lighting distribution system in Coronado, as follows:

EXPENDITURES FOR STEAM HEATING SYSTEM.

Construction—

| | | |
|---|-------------|-------------------|
| Steam heating distribution system mains ----- | \$85,039 65 | |
| Service lines ----- | 5,920 62 | |
| Steam meters ----- | 737 50 | |
| Miscellaneous expenditures ----- | 450 00 | |
| | | <hr/> \$92,147 77 |

Uncompleted construction jobs—

| | | |
|--|-------------|-------------------|
| Steam heating distribution system mains ----- | \$38,055 89 | |
| Steam heating distribution system service lines ---- | 1,781 37 | |
| | | <hr/> \$39,837 26 |

Material and supplies—

| | | |
|--|----------|------------------|
| Steam meters ----- | \$673 66 | |
| Miscellaneous material and tools ----- | 2,408 42 | |
| | | <hr/> \$3,082 08 |

| | | |
|---------------------------|--|--------------------|
| Total steam heating ----- | | <hr/> \$135,067 11 |
|---------------------------|--|--------------------|

FOR ELECTRIC LIGHTING SYSTEM.

Construction—

| | | |
|-------------------------------|-------------|-------------|
| Electric lines ----- | \$14,400 93 | |
| Electric meters ----- | 2,950 99 | |
| Transformers ----- | 406 00 | |
| Miscellaneous equipment ----- | 1,352 70 | |
| | | \$19,110 62 |

Uncompleted construction jobs—

| | | |
|---------------------------------------|----------|--------|
| Electric street lighting ----- | \$137 04 | |
| Ground secondary lines—Coronado ----- | 97 94 | |
| | | 234 98 |

Material and supplies—

| | | |
|---------------------------------|----------|--------|
| Electric meters and poles ----- | \$336 16 | |
| Transformers ----- | 157 30 | |
| | | 493 46 |

Total electric lighting ----- \$19,839 06

Grand total, steam and electric ----- \$154,906 17

(b) For additions to the steam heating distribution system in San Diego, as follows:

New 15-inch underground steam heating system pipe line connecting with present system at E and Arctic streets, extending south on Arctic street to F street, thence east on F street to Third street, connecting there with present system, approximate length 2,550 feet, estimated cost \$42,000 00

(3) United Light, Fuel and Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted applicant to issue stock shall apply only to stock issued prior to January 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

DECISION No. 1180.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA POWER AND MANUFACTURING COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE RIGHTS AND PRIVILEGES OF A FRANCHISE GRANTED TO IT BY THE BOARD OF SUPERVISORS OF SHASTA COUNTY.

Application No. 890.

Decided December 31, 1913.

Applicant granted a certificate of public convenience and necessity to develop and serve electrical energy to all of certain territory in Shasta County, which can be served from its plant at Fall River Mills. Protestant, Pitt River Power Company, to be granted certificate to serve certain remaining territory in same county.

Charles W. Slack, for Applicant.

Perry & Dailey, for Pitt River Power Company, Protestant.

REPORT OF THE COMMISSION.

ESHLEMAN, Commissioner.

The applicant is organized for the purpose, among others, of developing and distributing electrical energy for power and lighting purposes in the State of California. It has acquired certain power sites in the county of Shasta located on Hat Creek, and likewise contracted to purchase from Florin Brothers a certain small power plant and mill situate at the junction of Fall River with Pitt River in the town of Fall River Mills in Shasta County. It now applies to exercise the franchise granted by the supervisors of Shasta County and to distribute electricity in that portion of the county of Shasta bounded on the north, south and east by the county line and on the west by a line running in a northwesterly direction from the county line on the south through Lassen Peak and Montgomery Creek, thence running due north to the northerly county line. Within this territory are situate the towns of Fall River Mills, Burney, Hat Creek, McArthur, Glenburn, Pittsville, and Dana, none of which are now served with electricity with the exception of Fall River Mills, which is served by Florin Brothers, whose property the applicant has contracted to purchase.

At the hearing the Pitt River Power Company protested against the granting of the application on the ground that heretofore the protestant had applied to this Commission to exercise a franchise thereafter to be granted by the board of supervisors of Shasta County

and to distribute power within the same territory now sought to be served by the applicant. This application was filed by the protestant on March 28, 1913, and thereafter a hearing was held at which it developed that the then applicant in this case (Application No. 470) had not secured its franchises from the supervisors of Shasta, Modoc, and Lassen counties. Subsequent to the first hearing in Application No. 470 the board of supervisors of Shasta County offered a franchise for sale and the representative of the applicant herein put in a higher bid for the franchise and the same was sold, and the Pitt River Company was under the necessity of again applying for a franchise to the board of supervisors of Shasta County. This franchise has now been granted and both the applicant and the protestant have franchises within the county of Shasta, and a right, so far as the county authorities are concerned, to serve this territory, and the protestant has been given an order in Application No. 470 to the effect that if it should secure franchises from the supervisors of Shasta County and thereafter apply to this Commission, that this Commission would, providing it approved of said franchises, issue to this protestant a certificate of public convenience and necessity and permission to exercise said franchise rights. The applicant, on the other hand, has a franchise and now asks approval of this Commission thereto and for an order declaring that public convenience and necessity require the exercise of said franchise. It is in evidence that the protestant has expended a considerable sum of money, in all about \$25,000.00, but that a comparatively small amount of these expenditures was made in contemplation of serving the territory here involved. A power site at what is known as Burney Falls is in the control of protestant and for an expenditure variously estimated from about \$50,000.00 to over \$100,000.00 it is expected that sufficient power can be developed to serve the territory here involved. The applicant, as has been said, has power possibilities of importance on Hat Creek and likewise is in a position to secure the rights of Florin Brothers in Fall River Mills, and it is testified by the applicant that by the development of the power possibilities to be secured from Florin Brothers to their maximum capacity, it can develop enough power to supply the territory here involved. The protestant, on the other hand, contends that not nearly the amount of development can be made at the Fall River Mills site as is urged by the applicant.

I do not think it is necessary to go into the plans in detail of these two companies, but some of them are so nebulous that I very much doubt if they will be carried out in the near future. What I would like to do is to recommend that disposition of this entire matter which will most likely furnish electricity to the people living in this vicinity. If the applicant is kept out entirely, and the plan of the Pitt River Company be not consummated for financial or any other reasons, then

the residents of this section will be denied a convenience which we would like to see them secure. On the other hand, if we grant the application entirely, we have no assurance that the applicant will do any more than increase its facilities at Fall River Mills, which facilities, it is urged, are not sufficient to supply the entire territory involved. The plant now existing at Fall River Mills, of course, has a right to serve the territory it is actually serving and contiguous territory not served by any other utility without applying for a certificate, and unless the Pitt River Company should promptly carry out its project, by denying the Fall River plant the right to expand we would in effect be denying those who are now receiving electricity from this plant at Fall River under its present capacity any chance to secure power.

I believe under all the circumstances of this case that the following disposition should be made of it: I believe when the Pitt River Company shall present its application finally to have its franchise approved, that a certificate should be issued to it for the entire territory which is not at that time served by any other utility, and that the applicant herein should be permitted at the present time to enlarge its facilities at Fall River Mills to the limit of its capacity and to furnish all who can be furnished from such supply. The net result of such a determination will be that as to all the territory which the applicant can not serve from its Fall River plant the Pitt River Company will have the exclusive right to serve; while on the other hand, in all the remaining territory, except that which is now served by the Fall River plant, the two companies will have a right to compete in all that territory.

I recommend this disposition of the case because of the fact that I am afraid that in any other determination reached there will be small likelihood of power being developed for these people within this vicinity within the near future. I think, however, that a reasonable limit of time should be placed within which each of these companies should begin actual construction work, and if either one of them is dilatory in this regard the certificate as to such should be revoked in favor of the agency that is in good faith and expeditiously attempting to serve these communities.

I recommend the following order:

ORDER.

California Power and Manufacturing Company having applied for a certificate that public convenience and necessity require the exercise by it of franchise rights heretofore granted by the authorities of the county of Shasta within the territory in said county bounded on the north, south and east by the county line and on the west by a line running in a northwesterly direction from the county line on the south through Lassen Peak and Montgomery Creek, thence running due north

to the northerly line of the county; and a hearing having been held and being fully apprised in the premises, the Commission hereby finds as a fact that public convenience and necessity require the exercise of said franchise rights within the territory involved on the conditions set out in this order, and not otherwise.

And basing its order on the foregoing finding of fact, *it is hereby ordered*—

1. That a certificate of public convenience and necessity be issued to the applicant to serve the territory described herein to the extent that said territory can be served from the existing plant of Florin Brothers at Fall River Mills developed to the maximum capacity possible under the rights acquired from said Florin Brothers.

2. Each and every portion of this order is made on the following conditions:

(1) The applicant shall begin in good faith, as soon as weather conditions permit, the development of the power at the Fall River site, and shall by October 1, 1914, develop and have ready for delivery to consumers, all of the power which may be developed at the Fall River plant.

(2) The certificate granted herein to be limited to that territory which may be served from the supply developed by this company at the site named by the 1st day of October, 1914.

(3) Unless the protestant, the Pitt River Power Company, begins in good faith as soon as reasonably possible to develop its power possibilities for the purpose of serving the territory here involved, and is proceeding with such development by October 1, 1914, then in that event this Commission will deny said Pitt River Power Company the right to deliver electricity within the territory which the applicant herein shall be serving on that date.

(4) Should the Pitt River Power Company not take steps to furnish electricity to the territory involved in this application before the 1st day of January, 1915, then in that event this Commission will deny its application to proceed in this territory and will grant the applicant herein a certificate to serve the entire territory independent of the source from which the power may be acquired.

(5) This Commission reserves the right to limit or modify this order in the event that either the applicant or the protestant shall take any action which will warrant the Commission in so doing.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

Decisions Nos. 1181, 1182, 1183, grade crossings; not printed. See end of volume.

DECISION No. 1184.

IN THE MATTER OF THE APPLICATION OF ERNEST FLORIN AND FRED FLORIN, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF FLORIN BROTHERS, FOR AN ORDER AUTHORIZING THE SALE OF A PUBLIC UTILITY ELECTRICAL PLANT AND SYSTEM AT FALL RIVER MILLS, IN THE COUNTY OF SHASTA, TO THE CALIFORNIA POWER AND MANUFACTURING COMPANY.

Application No. 908.

Decided December 31, 1913.

Applicants authorized to sell their electrical generating plant and distributing system at Fall River Mills to the California Power and Manufacturing Company for the sum of \$25,000.00.

W. D. Tillotson, for Applicant.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

The applicants own a hydroelectric plant at a place called Fall River Mills in the county of Shasta, from which electricity is distributed and sold to the residents of the unincorporated town of Fall River Mills, and are also engaged in the flour milling business at said place.

The applicants have entered into an agreement to sell to E. B. Bumsted all of their property at this place, and Bumsted has assigned his rights under the agreement to the California Power and Manufacturing Company, and application is now made to sell the property direct to the latter company. The property desired to be sold is described as follows:

Those certain lots, pieces and parcels of land situate, lying and being in the county of Shasta, State of California, bounded and particularly described as follows, to wit:

Commencing at a point in the center line of the so-called "Winter Mill Ditch," which point is situated 60 feet easterly from the westerly line of Main street, of the town of Fall River Mills, as delineated and designated upon the map of Fall River Mills filed in the office of the county recorder of the said county of Shasta upon the 30th day of September, 1886, and running thence along the said center line of said ditch 165 feet, more or less, to the westerly side of the county road; thence along the westerly side of said county road 445 feet, more or less, to the westerly bank of Pitt River; thence along and down the westerly bank of Pitt River 220 feet, more or less; thence 160 feet, more or less, to a monument; thence 615 feet, more or less, to the point of com-

mencement; being a portion of the southwest quarter of the north-east quarter, and a portion of the southeast quarter of the north-west quarter of section 31, township 37 north, range 5 east, M. D. B. and M., and containing 2½ acres, more or less, and being the tract of land upon which is situated a certain flour mill, warehouse and electrical plant.

Also, the right to receive through the said Winter Mill Ditch two thousand miner's inches of water measured under a six-inch pressure, and such further quantity of water as applicants may be entitled to receive through said ditch.

Also, the electric light plant situated upon said land, consisting of a wooden building occupied by the electric generator, machine shop, and living quarters of electric operator, and the electric generating equipment, switchboard, water wheel, penstock, shafting and belts, lathe, tools, and all other equipment or supplies used in operating said electric light plant and all franchises and other rights of the applicants in connection therewith, and the poles, wires, supports, insulators, transformers, lights, meters, tools and other materials and supplies now used by the applicants in their business of distributing and selling electricity.

Also, the flour mill and warehouse situated upon said land, and all machinery, tools, and appliances used in connection therewith.

Also, the business, good will, contracts, agreements, records of past business, trade-marks, and any other rights attaching and necessary to the flour mill and electric light plant and distributing lines and system.

It is alleged that the fair value of this property is at least \$25,000.00, and this is the consideration which is to pass from the California Power and Manufacturing Company to Florin Brothers. It is designed to increase the facilities for generating electricity to the maximum that may be generated at this point and to dispose of the mill to a subsidiary company which will take power from the electrical company.

I see no reason why the application should not be granted and recommend the following order:

ORDER.

Ernest Florin and Fred Florin, copartners doing business under the firm name of Florin Brothers, having applied to this Commission for permission to sell to the California Power and Manufacturing Company, and the California Power and Manufacturing Company having joined in said application to purchase all of the property described in the opinion hereto for \$25,000.00, and a hearing having been held and being fully apprised in the premises,

It is hereby ordered that permission be granted to said Ernest Florin and Fred Florin, copartners doing business under the firm name of Florin Brothers, to sell to the California Power and Manufacturing Company all of said property described in the opinion hereto, for the sum of \$25,000.00, on the condition, however, that such purchase price shall not be binding upon this Commission nor any other public

authority in fixing the rates of the public utility acquiring the same under the permission herein granted.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

DECISION No. 1185.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE
PROPERTY OF CALIFORNIA WESTERN RAILROAD AND
NAVIGATION COMPANY.

Case No. 167.

Decided December 31, 1913.

Investigation on Commission's own initiative to ascertain the various elements entering into the value of respondent's property. Findings made as to facts, but not on the question of the value of the property irrespective of the purposes for which the value is ascertained. Opinion and order in Case No. 206 referred to for general procedure in valuation cases.

Findings of Fact: (1) that the reproduction value of the operative physical property of respondent as of June 30, 1912, is the sum of \$1,724,900.05; (2) that the present value of the operative physical property of respondent as of June 30, 1912, is the sum of \$1,584,764.77.

Charles Harlowe, for California Western Railroad and Navigation Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This proceeding was brought on the Railroad Commission's initiative for the purpose of ascertaining the elements entering into the value of the property of the California Western Railroad and Navigation Company. For the general procedure in these valuation cases and for a general description of the work performed by this Commission's engineering department therein, reference is hereby made to this Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of Stockton Terminal and Eastern Railroad Company, and Case No. 210, being the matter of ascertaining the value of the property of Tonopah and Tidewater Railroad Company. As in those cases, so here also, I shall confine myself to making findings of fact and shall not make a finding on the ultimate question of the value of the property, irrespective of the purpose for which the value is ascertained.

Before proceeding further, I shall define certain terms which will be used herein.

The term "original book cost," as used in this opinion, means the actual expenditure chargeable to capital account in accordance with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission for steam roads, made by the railroad company for its operative property as of June 30, 1912.

The term "reproduction value," as used in this opinion, means the estimated cost in cash of acquiring the operative right of way and other real estate and of reproducing in the condition in which it was acquired the other operative physical property of the railroad company, as of June 30, 1912, to which are added overhead expenditures for engineering, law, interest and commissions, and similar items.

The term "present value," as used in this opinion, means the "reproduction value" less the diminution in value of the physical elements of the property, due to use, age, obsolescence, inadequacy and other causes, plus appreciation where found. This might properly be called "depreciated reproduction value," and does not mean the ultimate fact of present value, as that term is ordinarily used.

In accordance with this Commission's order, dated October 24, 1912, California Western Railroad and Navigation Company, on December 26, 1912, filed an inventory of its property, together with an estimate of the original cost, as will hereinafter appear in greater detail, and also an estimate of its reproduction value and present value. This inventory was filed in two portions, the first covering the company's main line and the other its Pudding Creek branch line. A final summary sheet showing the totals of the amounts indicated on these two inventories is attached to this opinion and marked "Exhibit A."

On May 6, 1913, this Commission's engineering department submitted its detailed report in this proceeding. Thereafter, on October 30, 1913, and again on November 18, 1913, the engineering department submitted revised reports. The latest of these reports shows an estimate of reproduction value of \$1,746,708.79, and an estimated present value of \$1,614,080.16. A copy of the engineering department's latest revised estimate is attached hereto and marked "Exhibit B."

Thereafter, on November 22, 1913, the hearing in this proceeding was held. The railroad company was represented by Mr. Charles Harlowe, its chief engineer, who presented certain objections to the report of this Commission's engineering department, as revised, which objections will hereinafter be considered in detail. A revised final summary sheet, containing the Commission's findings, is attached hereto and marked "Exhibit C."

As is usual in these valuation proceedings, I shall, in connection with this inquiry, consider the following matters:

1. Organization, construction and operation.
2. Stocks and bonds.
3. Revenues and expenses.
4. Original book cost.
5. Reproduction value.
6. Present value.

1. Organization, Construction and Operation.

California Western Railroad and Navigation Company was incorporated under the laws of this State on July 1, 1905. The incorporation was effected by stockholders of Union Lumber Company, which company for some twenty-five years theretofore had gradually extended its logging road easterly from Fort Bragg, in Mendocino County, California, for the purpose of tapping new timber lands. At the time of the incorporation of the railroad company, a main line had been constructed for a distance of 18.25 miles from Fort Bragg to Alpine, and a branch line, known as the Pudding Creek branch, from Glen Blair Junction to Glen Blair, a distance of some 3.22 miles. The purpose of the incorporation of the California Western Railroad and Navigation Company seems to have been to separate the railroad business from the lumber business of the Union Lumber Company and to extend and operate the railroad as a common carrier.

Immediately after the incorporation of the California Western Railroad and Navigation Company the Union Lumber Company conveyed to it for the considerations hereinafter specified, its entire railroad properties, together with certain nonoperative property, to which reference will hereinafter be made. In 1909, the main line extended a distance of some 5.5 miles easterly from Alpine to Shake City. Surveys were thereafter made for a farther extension from Shake City to Willits, on the line of the Northwestern Pacific Railroad Company. In the fall of 1911 and spring of 1912, this extension was constructed. The construction accounts closed on March 31, 1912.

The railroad as thus completed, extending from Fort Bragg on the Pacific Ocean to Willits on the line of the Northwestern Pacific Railroad Company, together with the Pudding Creek branch, is located entirely in Mendocino County, California, and has the following mileage:

| | |
|---|-------------|
| Main line—Fort Bragg to Willits | 39.55 miles |
| Pudding Creek branch—Glen Blair Junction to Glen Blair--- | 3.22 miles |
| <hr/> | |
| Total main track | 42.77 miles |
| Sidings and yard tracks | 8.54 miles |
| <hr/> | |
| Total track mileage | 51.31 miles |

The railroad traverses a rough, heavily timbered and mountainous country, in a general easterly and westerly direction, following the course of a number of streams. The road commences at Fort Bragg, where are located the mills and yards of the Union Lumber Company. From this point it follows Pudding Creek in an easterly direction to the confluence of Pudding Creek and Noyo River. From this point the Pudding Creek branch runs in an easterly and northerly direction to Glen Blair, where are located the mills of the Glen Blair Redwood Lumber Company. From Glen Blair Junction, the main line runs to the south and east, crossing the ridge between Pudding Creek and the Noyo River through a single track tunnel. The line then follows the Noyo River easterly through its various windings, a distance of some 23 miles, at which point the ascent of the Coast Range is begun. The railroad follows a tortuous course up the mountain, doubling back on itself four or five times to secure sufficient distance to overcome the climb. The summit is crossed through a tunnel known as Tunnel No. 2, thereupon the line descends to Willits, where physical connection is made with the line of the Northwestern Pacific Railroad Company.

No towns other than lumber camps are located between the termini of this railroad. The larger portion of the railroad company's revenue is derived from the transportation of forest products to Fort Bragg and Willits. At the present time some 90 per cent of the company's freight traffic is of this class. The company operates two trains daily each way between Fort Bragg and Willits, and a third train daily except Sunday between the same points. One "daily except Sunday" train is operated between Fort Bragg and Glen Blair and two "daily except Sunday" trains between Fort Bragg and North Spur.

2. Stocks and Bonds.

The railroad company has outstanding 10,000 shares of common stock, of the par value of \$100.00 each, totalling one million dollars. Applicant has authorized an issue of bonds of the face value of \$600,000.00, bearing interest at the rate of 6 per cent, maturing January 1, 1915, of which amount bonds of the face value of \$530,000.00 were outstanding on June 30, 1912. This capital stock, together with the first issue of 420 bonds of the face value of \$1,000.00 each, bearing interest at the rate of 5 per cent per annum and maturing January 1, 1910, were issued in payment for the property acquired from Union Lumber Company. This property was inventoried at the time and its value estimated, the total estimated value being \$1,565,790.30, in which sum was included an item of \$584,290.50 for 19,476.35 acres of non-operative land, estimated at \$30.00 per acre. The Union Lumber Company agreed to purchase the stumpage on this nonoperative property at the rate of \$1.00 per thousand, board measure, the total amount so to be paid being estimated to be said sum of \$584,290.50. The 420 five

per cent bonds hereinbefore referred to were thereafter, on January 1, 1910, refunded by means of a portion of the proceeds of the present outstanding bonds. The remaining proceeds of these bonds were used to pay the cost of the extension from Shake City to Willits.

The Union Lumber Company has complete control of the railroad company. Mr. T. L. Johnson, one of the principal owners of the lumber company, holds in his own name 99.1 per cent of the capital stock of the railroad company. The other 9 shares are held by other officials of the lumber company.

Dividends on the railroad company's stock have been paid as follows: in 1906, 2½ per cent; in 1911, 7½ per cent, and in 1912, 10 per cent. A sinking fund amounting on June 30, 1912, to \$10,125.00 has also been set aside from income. No depreciation fund has been provided.

3. Revenues and Expenses.

The revenues and expenses of the railroad company for the year ending June 30, 1912, appear in the railroad company's annual report, on file with this Commission, as follows:

| | | |
|---|--------------|--------------|
| Operating revenues | \$208,372 66 | |
| Operating expenses | 102,860 15 | |
| | | |
| Net operating revenues | | \$105,512 51 |
| Net revenue from outside operations | | 32,334 38 |
| | | |
| Total net revenue | | \$137,846 89 |
| Taxes accrued | | 10,830 47 |
| | | |
| Operating income | | \$127,016 42 |
| Dividend declared on stocks owned or controlled | | 14,267 00 |
| | | |
| Gross income | | \$141,283 42 |
| Interest accrued on funded debt | \$25,823 11 | |
| Other interest | 7,644 68 | |
| Extinguishment of discount | 1,960 05 | |
| | | |
| Total deductions from gross corporate income | | 35,427 84 |
| | | |
| Net corporate income | | \$105,855 58 |
| Dividend—10 per cent | | 100,000.00 |
| | | |
| Balance carried forward | | \$5,855 58 |

4. Original Book Cost.

The railroad company presented to the Commission a statement of \$1,601,146.09 as representing the original cost of the main line and \$60,981.17 as representing the original cost of the Pudding Creek branch. At the hearing Mr. Harlowe testified that these sums represented the actual original cost of only the Shake City extension, running from Shake City to Willits, and that with reference to the remaining portion of the main line and the entire branch line he had simply estimated what the original cost should have been on the basis of estimated values at the different times during which the various

portions of the railroad from Fort Bragg to Shake City were constructed. It is evident that with the exception of the extension from Shake City to Willits, the figures thus presented by the railroad company are merely an estimate of what the original cost should have been. I am accordingly unable to make any finding under the head of "original book cost," except with reference to the Shake City extension. The entire actual expenditures for this extension appear in a statement thereof introduced at the hearing and marked "Railroad Commission's Exhibit B." This statement shows that the expenditures actually incurred, and classified as prescribed by the Interstate Commerce Commission, totalled to March 31, 1912, the sum of \$592,581.38. It should be noted in this connection, however, that the sum of \$26,425.94, being 75 per cent of the contractor's profit on grading, was returned to the company in accordance with the provisions of its contract with the contractor, thereby reducing the actual expenditures for grading from \$313,067.70 to \$286,641.76. I accordingly find that the "original book cost" of the Shake City extension, as shown on said statement, to March 31, 1912, is the sum of \$592,581.38, but am unable to make a finding under this head with reference to the remaining portions of the line.

5. **Reproduction Value.**

The railroad company entered its objections to the engineering department's revised estimate with reference to certain items under the head of "reproduction value." I shall now consider these objections seriatim.

1. *Right of way and station grounds.*

The railroad company's estimate and that of this Commission's engineering department under this head are as follows:

| | Original book cost | Reproduction value | Present value |
|--|-----------------------|-----------------------|---------------|
| Railroad company's estimate..... | \$28,610 39 | \$116,453 27 | \$119,771 24 |
| Engineering department's estimate..... | ----- | 125,684 34 | 125,684 34 |

It will be noted that the engineering department's estimates both for reproduction value and present value are in excess of those presented by the railroad company. Nevertheless, the railroad company claims certain additional allowances in connection with what is known as the Glen Blair yards in Fort Bragg, certain right of way and certain property which was condemned and other property adjacent thereto. Evidence was introduced both by Mr. Harlowe and by this Commission's engineering department, and I am satisfied that the estimate of the engineering department is at least liberal enough. For that reason the estimate of the engineering department under this account will be accepted.

Before leaving this account I desire to draw attention to the very great difference between the original cost of real estate as reported by the railroad company and the present estimated reproduction value and present value. The entire original cost of this property as reported by the railroad company was only \$28,610.39. It is now estimated by this Commission's engineering department that it would cost \$125,-684.34, or more than four times the original cost, to reproduce the right of way and station grounds. Attention is drawn to this matter as illustrating the very great importance of increase in land values as bearing on the proper basis of railroad rate making in this State.

2. Grading.

The estimates for this item as presented by the railroad company and by this Commission's engineering department are as follows:

| | Original cost | Reproduction value | Present value |
|--|---------------|--------------------|---------------|
| Railroad company's estimate..... | \$444,748 85 | \$416,189 25 | \$425,003 16 |
| Engineering department's estimate..... | ----- | 496,089 77 | 506,228 05 |

It will be noted that the engineering department's estimate for reproduction value is almost \$80,000.00 in excess of that of the railroad company and that the department's estimate for present value is something over \$81,000.00 in excess of the railroad company's estimate. It should be said further that the railroad company's estimate does not include transportation of men and materials or contingencies, both of which items are included in the engineering department's estimate. The Shake City extension was constructed under a contract dated July 19, 1910, between California Western Railroad and Navigation Company and L. J. Scoofy. This contract contained certain prices for grading, among other items, and provided that transportation of all men and materials should be furnished by the railroad company. It was also provided, as hereinbefore indicated, that the railroad company should finance the construction and that 75 per cent of the contractor's profits should be returned to the company. The unit prices used by the railroad company in presenting its estimate, as well as these specified in the Scoofy contract, are as follows in cents per cubic yard:

| | Earth | Loose rock | Solid rock | Overhaul (100 feet free-haul) |
|--|-------|------------|------------|-------------------------------------|
| Railroad company's estimate..... | \$.30 | \$.60 | \$.90 | \$.01 |
| Scoofy contract | .27 | .55 | .90 | .01 |
| Engineering department's estimate..... | .34 | .60 | 1.00 | .01½ |

The prices paid by Northwestern Pacific Railroad Company for construction work from Willits north under conditions similar to those

surrounding the California Western Railroad and Navigation Company's construction are as follows:

| | Earth | Loose rock | Solid rock | Overhaul |
|------------------------------------|--------|------------|------------|----------|
| Northwestern Pacific Railroad..... | \$.24 | \$.43 | \$.80 | \$.01 |

The Utah Construction Company's prices do not include transportation of men and materials, which sum averages 3.7 cents per cubic yard.

In my opinion, the amounts actually paid by the railroad company for the extension from Shake City to Willits, which work was completed on March 31, 1912, with the necessary allowances, is the best evidence of what it would have cost to reproduce the railroad company's line of railroad during the year ending June 30, 1912, as is assumed in this proceeding. The best evidence of what it would cost to reproduce property during a certain period of time is certainly the actual cost of that property during that same time, if the cost can be ascertained. In this case, the actual cost for grading and each item thereof on the Shake City extension appears in the statement which was introduced in evidence as the Railroad Commission's Exhibit "B."

The prices actually paid by the railroad company under the Scoofy contract were somewhat different from those specified in the contract. The actual amounts paid for earth, loose rock, solid rock and overhaul on this work, together with the number of cubic yards in each case and the average price actually paid per cubic yard in each case are as follows:

| | Cost | Cubic yards | Per cubic yard |
|--------------------|---------------------|-------------|----------------|
| Earth | \$46,717 25 | 182,671 | \$.26 |
| Loose rock | 84,812 75 | 170,390 | .50 |
| Solid rock | 106,993 50 | 110,279 | .91 |
| Overhaul | 3,364 45 | 184,600 | .02 |
| Total | \$235,887 99 | | |

To ascertain the actual cost of this work to the railroad company, there should be deducted the sum of \$26,425.94, which was repaid by the contractor to the company as representing 75 per cent of his profit, and there should be added an item of \$20,220.36, being the actual cost of transportation of men and materials and extras, properly chargeable to grading, thus resulting in a grand total for grading of \$229,682.41, and changing the unit prices as follows:

| | |
|----------------------------------|-----------|
| Earth, per cubic yard | 25 cents |
| Loose rock, per cubic yard | 48½ cents |
| Solid rock, per cubic yard | 88 cents |
| Overhaul, per cubic yard | 2 cents |

These latter unit figures and not the figures specified in the contract represent the actual cost units to the railroad company. I am of the opinion, however, that 11 per cent should be added to each of these units as representing the 75 per cent of contractor's profit which was returned to the company, for the reason that such a profit rebate clause is an unusual thing in construction contracts and we can not assume that in reproducing the railroad new such contract could be entered into. As a matter of fact, Mr. Scoofy was more in the character of a superintendent than of a contractor. An allowance of 5 per cent should also be made for contingencies. On this basis the cost units which should be allowed in this case are as follows:

| | | |
|----------------------------------|----|-------|
| Earth, per cubic yard | 28 | cents |
| Loose rock, per cubic yard | 53 | cents |
| Solid rock, per cubic yard | 97 | cents |
| Overhaul, per cubic yard | 14 | cents |

While these figures are somewhat higher than the engineering department's averages for this territory, I am convinced that they are not excessive for this particular work. The price for overhaul usually allowed, with a free haul of 400 feet, is 1 cent. In this particular case the evidence shows that it actually cost in excess of this amount for this item on the Shake City extension, and I shall accordingly allow the larger amount, even though ordinarily not over 1 cent per cubic yard would be allowed under this head.

3. *Pile and frame trestles.*

The unit prices for this item as originally submitted by the railroad company and by this Commission's engineering department are as follows:

| | | |
|------------------------------|---------|-----------------------------|
| Railroad company | \$22 00 | per thousand, board measure |
| Engineering department | 27 00 | per thousand, board measure |

At the hearing Mr. Harlowe stated that, in his opinion, the unit price should be \$29.00 per thousand, board measure, but no satisfactory evidence in support of this claim was produced. Under these circumstances, the engineering department's estimate will be allowed.

4. *Ties.*

While the railroad company and this Commission's engineering department agreed upon a price of \$12.00 per thousand, board measure, for switch ties, they disagreed materially with reference to the price for track ties. The railroad company claimed 40 cents for each track tie, while the engineering department allowed only 23 cents for 6 inch by 8 inch by 8 foot redwood ties and 28 cents for 7 inch by 8 inch by 8 foot redwood ties. The evidence in this case shows that the engineering department's estimate is far too low. The price of ties f.o.b. Fort Bragg as of June 30, 1912, was 42 cents each. About 30 per cent of the

total number of ties used on the railroad were cut from the right of way. For these ties the price of 36 cents should be used, being the price f.o.b. Fort Bragg, less the cost of transportation from the site of the cutting to Fort Bragg, which cost amounts to about 6 cents. The remaining ties should be estimated at 42 cents per tie. The transportation cost of these latter ties is included in the unit price for track laying. The net result of this change is that all the track ties should be allowed at an average price of 40 cents each.

5. *Ballast.*

This Commission's engineering department allowed 55 cents per cubic yard for ballast. Under the head of track laying and surfacing, an additional 35 cents per cubic yard was allowed for placing the ballast, and under the head of contingencies an additional 5 per cent was allowed, bringing the total amount allowed up to 94.5 cents per cubic yard. The actual cost of the ballast on the Shake City extension amounts to a total of \$14,160.38 for 24,914 cubic yards, being an average cost per cubic yard of 56.8 cents. As Mr. Harlowe testified that his company's equipment for this purpose was poor, it would seem that the engineering department's allowance is a fair one. This item will stand.

No objections were presented to the engineering department's estimate with reference to the other items included in reproduction value. The necessary changes in the engineering department's estimate have been incorporated in Exhibit "C," attached to this opinion. I find that the "reproduction value" as that term has hereinbefore been defined, of the operative property of California Western Railroad and Navigation Company, as of June 30, 1912, to be the sum of \$1,724,900.05.

6. *Present Value.*

No testimony was presented at the hearing on the "present value" of this line of railroad. The changes which have been made in the engineering department's estimate of reproduction value make it necessary, however, to make corresponding changes in the department's estimate of present value. These changes have been made and appear in Exhibit "C."

I find that the "present value" as that term has hereinbefore been defined, of the operative property of California Western Railroad and Navigation Company, as of June 30, 1912, is the sum of \$1,584,764.77.

The foregoing opinion and findings are hereby approved and ordered filed as of the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

EXHIBIT "A."

Company's Valuation.

Name of owner, California Western Railroad and Navigation Company; operating company, same; division, entire line; from Fort Bragg to Willits; miles main line track, 42.77; miles yard tracks, etc., 8.543; total, 51.313.
Valuation as of June 30, 1912.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|---|----------|--------------------|--|---------------|--------------------|----------------|----------------|
| 1 | 1 | 2 | Right of way and station grounds..... | | \$116,453 27 | | \$119,771 24 |
| 2 | 2 | 3 | Real estate | | 935 00 | | 1,018 40 |
| 3 | 3 | 4 | Grading | | 416,189 25 | | 425,003 16 |
| 4 | 4 | 5 | Tunnels | | 88,384 27 | | 87,508 27 |
| 5 | 5 | 6 | Steel bridges and trusses..... | | | | |
| 6 | 6 | 6 | Pile and frame trestles..... | | 112,487 26 | | 98,317 61 |
| 7 | 7 | 6 | Culverts | | 9,618 79 | | 9,427 13 |
| 8 | 8 | 7 | Ties | | 65,980 78 | | 59,831 27 |
| 9 | 9 | 8 | Rails | | 197,398 18 | | 186,198 97 |
| 10 | 10 | 9 | Frogs and switches..... | | 5,895 00 | | 5,266 58 |
| 11 | 11 | 10 | Track fastenings and other material..... | | 23,349 21 | | 21,301 07 |
| 12 | 12 | 11 | Ballast | | 34,573 60 | | 31,295 76 |
| 13 | 13 | 12 | Tracklaying and surfacing..... | | 81,125 43 | | 78,262 18 |
| 14 | 14 | 13 | Roadway tools | | 9,016 05 | | 5,179 38 |
| 15 | 15 | 14 | Fencing right of way..... | | 1,826 68 | | 1,826 68 |
| 16 | 16 | 15 | Crossings and signs..... | | 89 00 | | 89 00 |
| 17 | 17 | 16 | Interlocking plants..... | | | | |
| 18 | 18 | 16 | Signal apparatus..... | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines..... | | 4,791 01 | | 4,791 01 |
| 20 | 20 | 18 | Station buildings and fixtures..... | | 2,433 53 | | 2,049 63 |
| 21 | 21 | 18 | Platforms, walks, paving and curb..... | | 841 20 | | 703 20 |
| 22 | 22 | 19 | General office buildings and fixtures..... | | | | |
| 23 | 23 | 20 | Shop buildings and engine houses..... | | 5,321 70 | | 4,854 45 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc..... | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures..... | | | | |
| 26 | 26 | 21 | Shop machinery and tools..... | | 1,509 00 | | 1,207 20 |
| 27 | 27 | 22 | Water stations..... | | 13,749 66 | | 11,546 78 |
| 28 | 28 | 23 | Fuel stations..... | | 2,387 98 | | 1,405 25 |
| 29 | 29 | 24 | Grain elevators..... | | 433 00 | | 433 00 |
| 30 | 30 | 25 | Storage warehouses..... | | | | |
| 31 | 31 | 26 | Dock and wharf property..... | | 41,270 30 | | 29,117 55 |
| 32 | 32 | 27 | Electric light plants..... | | | | |
| 33 | 33 | 28 | Electric power plants..... | | | | |
| 34 | 34 | 29 | Electric power transmission..... | | | | |
| 35 | 35 | 30 | Gas producing plants..... | | | | |
| 36 | 36 | 31 | Miscellaneous structures..... | | 9,715 25 | | 6,156 64 |
| Total classes 1 to 36, inclusive..... | | | | | \$1,245,765 40 | | \$1,192,651 41 |
| 37 | --- | 1 | Engineering, 7 per cent, 1 to 36, inclusive..... | | 87,203 57 | | 83,695 60 |
| 38 | 37 | 32 | Transportation of men and material..... | | 79,829 81 | | 79,829 81 |
| 39 | 38 | 33 | Rent of equipment..... | | 4,438 38 | | 4,438 38 |
| 40 | 38 | 34 | Repairs of equipment..... | | 414 24 | | 414 24 |
| 41 | --- | 35 | Earning and operating expenses during construction..... | | | | |
| 42 | --- | 35 1/2 | Injuries to persons..... | | | | |
| 43 | --- | 36 | Cost of road purchased..... | | | | |
| Total classes 1 to 43, inclusive..... | | | | | \$1,417,651 40 | | \$1,361,029 44 |
| 44 | 39 | 37 | Steam locomotives..... | | 48,500 00 | | 35,000 00 |
| 45 | --- | 38 | Electric locomotives..... | | | | |
| 46 | 40 | 39 | Passenger train cars..... | | 10,030 00 | | 8,800 00 |
| 47 | 41 | 40 | Freight train cars..... | | 105,850 00 | | 83,745 00 |
| 48 | 42 | 41 | Work equipment..... | | | | |
| 49 | 43 | 42 | Floating equipment..... | | | | |
| Total classes 1 to 49, inclusive..... | | | | | \$1,582,001 40 | | \$1,488,574 44 |
| 50 | --- | 43 | Law expenses, 1 per cent, classes 1 to 36, inclusive..... | | 12,457 65 | | 11,956 51 |
| 51 | 44 | 44 | Stationery and printing..... | | 314 56 | | 314 56 |
| 52 | 44 | 45 | Insurance..... | | 2,279 00 | | 2,279 00 |
| 53 | 45 | 46 | Taxes..... | | 10,534 88 | | 10,534 88 |
| Total classes 1 to 53, inclusive..... | | | | | \$1,607,587 49 | | \$1,513,659 39 |
| 54 | --- | 47 | Interest and commission, 4 per cent, classes 1 to 53, inclusive..... | | 64,303 50 | | 60,696 37 |
| 55 | 45 | 48 | Other expenditures..... | | 1,350 83 | | 1,350 83 |
| 56 | --- | --- | Contingencies, 10 per cent, classes 1 to 53, inclusive..... | | 160,758 75 | | 151,665 94 |
| 57 | 46 | --- | Stores and supplies on hand for use in California..... | | 42,859 66 | | 32,402 86 |
| Grand total | | | | | \$1,876,869 23 | | \$1,759,745 39 |
| Average per mile for main line track..... | | | | | 43,882 63 | | 41,144 38 |

EXHIBIT "B."

Valuation as of June 30, 1912.

Owning company, California Western Railroad and Navigation Company; operating company, same; operating division, entire line; valuation unit, same, from Fort Bragg to Willits; county, Mendocino.
 Submitted with report of Assistant Engineer H. J. Bernier, date compiled, October 28, 1913; line first track.
 42.77 miles; yard tracks, sidings, etc., 8.54 miles; total, 51.31 miles.

| Class No | Form No | Acct. No | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|----------|---------|----------|---|---------------|--------------------|----------------|----------------|
| 37 | 1 | 1 | Engineering, 5 per cent of R. V. classes 3 to 36, inclusive | | \$2,301.30 | 100 | \$2,301.30 |
| 1 | 2 | 2 | Right of way and station grounds | | 125,683.34 | 100 | 125,683.34 |
| 2 | 3 | 3 | Real estate | | 51.28 | 100 | 51.28 |
| 3 | 4 | 4 | Grading | | 495,089.77 | 102 | 506,228.05 |
| 4 | 5 | 5 | Tunnels | | 122,825.65 | 99 | 121,561.71 |
| 5 | 6 | 6 | Steel bridges and trusses | | | | |
| 6 | 7 | 7 | Pile and frame trestles | | 137,312.70 | 76 | 103,923.50 |
| 7 | 8 | 8 | Culverts | | 9,276.22 | 87 | 8,108.53 |
| 8 | 9 | 9 | Ties | | 35,962.93 | 72 | 25,718.91 |
| 9 | 10 | 10 | Rails | | 22,648.09 | 93 | 20,915.00 |
| 10 | 11 | 11 | Frogs and switches | | 7,004.39 | 72 | 5,453.07 |
| 11 | 12 | 12 | Track fastenings and other material | | 26,185.64 | 83 | 21,796.41 |
| 12 | 13 | 13 | Ballast | | 35,926.27 | 100 | 35,926.27 |
| 13 | 14 | 14 | Tracklaying and surfacing | | 76,515.84 | 92 | 69,942.70 |
| 14 | 15 | 15 | Roadway tools | | 1,621.91 | 80 | 1,297.53 |
| 15 | 16 | 16 | Fencing right of way | | 1,201.20 | 98 | 1,180.70 |
| 16 | 17 | 17 | Crossings and signs | | 128.94 | 81 | 104.92 |
| 17 | 18 | 18 | Interlocking plants | | | | |
| 18 | 19 | 19 | Signal apparatus | | | | |
| 19 | 20 | 20 | Telegraph and telephone lines | | 7,895.68 | 75 | 5,920.80 |
| 20 | 21 | 21 | Station buildings and fixtures | | 2,849.69 | 84 | 2,384.05 |
| 21 | 22 | 22 | Platforms, walks, paving and curbs | | 283.16 | 81 | 229.99 |
| 22 | 23 | 23 | General office buildings and fixtures | | | | |
| 23 | 24 | 24 | Shop buildings and engine houses | | 6,210.66 | 81 | 5,142.46 |
| 24 | 25 | 25 | Transfer and turntables, tender pits, etc. | | | | |
| 25 | 26 | 26 | Miscellaneous shop buildings and structures | | 2,901.94 | 69 | 2,064.37 |
| 26 | 27 | 27 | Shop machinery and tools | | 14,550.18 | 73 | 10,633.92 |
| 27 | 28 | 28 | Water stations | | 2,758.63 | 79 | 2,266.70 |
| 28 | 29 | 29 | Fuel stations | | 459.45 | 96 | 459.59 |
| 29 | 30 | 30 | Grain elevators | | | | |
| 30 | 31 | 31 | Storage warehouses | | | | |
| 31 | 32 | 32 | Dock and wharf property | | 48,238.50 | 71 | 34,317.82 |
| 32 | 33 | 33 | Electric light plants | | | | |
| 33 | 34 | 34 | Electric power plants | | | | |
| 34 | 35 | 35 | Electric power transmission | | | | |
| 35 | 36 | 36 | Gas producing plants | | | | |
| 36 | 37 | 37 | Miscellaneous structures | | 8,098.77 | 71 | 6,164.86 |
| 37 | 38 | 38 | Transportation of men and material | | | | |
| 38 | 39 | 39 | Rent of equipment | | | | |
| 39 | 40 | 40 | Repairs of equipment | | | | |
| 40 | 41 | 41 | Hauling and operating expenses during construction | | | | |
| 41 | 42 | 42 | Injuries to persons | | | | |
| 42 | 43 | 43 | Cost of road purchased | | | | |
| 43 | 44 | 44 | Steam locomotives | | 49,995.00 | 66 | 33,562.00 |
| 44 | 45 | 45 | Electric locomotives | | | | |
| 45 | 46 | 46 | Passenger train cars | | 10,100.00 | 83 | 8,388.00 |
| 46 | 47 | 47 | Freight train cars | | 169,282.00 | 78 | 131,988.00 |
| 47 | 48 | 48 | Work equipment | | 18,552.91 | 80 | 14,839.80 |
| 48 | 49 | 49 | Floating equipment | | | | |
| 49 | 50 | 50 | Law expenses, 1 per cent of R. V. of classes 3 to 35, inclusive | | 12,600.25 | 100 | 12,600.25 |
| 50 | 51 | 51 | Stationery and printing, included in class 37 | | | | |
| 51 | 52 | 52 | Insurance, included in class 55 | | | | |
| 52 | 53 | 53 | Taxes, included in class 55 | | | | |
| 53 | 54 | 54 | Interest and commission, 3 per cent of R. V. of classes 3 to 53 | | 45,897.51 | 100 | 45,897.51 |
| 54 | 55 | 55 | Other expenditures, 1 of 1 per cent of R. V. of classes 3 to 53 | | 7,649.59 | 100 | 7,649.59 |
| 55 | 56 | 56 | Stores and supplies on hand for use in California | | 37,507.89 | 100 | 37,507.89 |
| 56 | 57 | 57 | Grand total | | \$1,746,788.79 | 92 | \$1,614,080.16 |
| 57 | 58 | 58 | Average per mile for main track | | 40,839.57 | 92 | 37,738.61 |
| 58 | 59 | 59 | I. C. C. accounts 4 to 36, road accounts | | 1,266,026.01 | | 1,176,179.49 |
| 59 | 60 | 60 | I. C. C. accounts 37 to 42, equipment | | 187,929.91 | | 115,147.80 |
| 60 | 61 | 61 | I. C. C. accounts 43 to 48, general expenses | | 69,207.36 | | 66,207.56 |
| 61 | 62 | 62 | I. C. C. accounts 2 and 3 right of way and real estate | | 125,736.32 | | 125,736.32 |

EXHIBIT "C."

Valuation as of June 30, 1912.

Owning company, California Western Railroad and Navigation Company; operating company, same; operating division, entire line; valuation unit, same; from Fort Bragg to Willits; county, Mendocino.
 Submitted with report of Richard Sachse; date compiled, December, 1913; line first track, 42.77 miles; yard tracks, sidings, etc., 8.54 miles; total, 51.31 miles.

| Class No. | Form No. | I. C. C. Aet. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|-------------------|---|---------------|--------------------|----------------|----------------|
| 37 | 1 | 1 | Engineering, 5 per cent of R. V. classes 3 to 36, inclusive | | \$62,307 37 | 100 | \$62,307 37 |
| 1 | 1 | 2 | Right of way and station grounds | | 125,684 34 | 100 | 125,684 34 |
| 2 | 2 | 3 | Real estate | | 51 98 | 100 | 51 98 |
| 3 | 3 | 4 | Grading | | 452,185 31 | 102 | 461,669 74 |
| 4 | 4 | 5 | Tunnels | | 122,825 65 | 99 | 121,501 71 |
| 5 | 5 | 6 | Steel bridges and trusses | | | | |
| 6 | 6 | 6 | Pile and frame trestles | | 137,313 70 | 76 | 103,923 50 |
| 7 | 7 | 6 | Culverts | | 9,276 22 | 87 | 8,108 53 |
| 8 | 8 | 7 | Ties | | 59,988 85 | 72 | 42,892 03 |
| 9 | 9 | 8 | Rails | | 230,648 09 | 93 | 205,915 00 |
| 10 | 10 | 9 | Frogs and switches | | 7,694 39 | 72 | 5,453 07 |
| 11 | 11 | 10 | Track fastenings and other material | | 26,185 04 | 83 | 21,795 41 |
| 12 | 12 | 11 | Ballast | | 35,926 27 | 100 | 35,926 27 |
| 13 | 13 | 12 | Tracklaying and surfacing | | 76,515 84 | 92 | 69,242 70 |
| 14 | 14 | 13 | Roadway tools | | 1,621 91 | 80 | 1,297 53 |
| 15 | 15 | 14 | Fencing right of way | | 1,201 20 | 98 | 1,180 70 |
| 16 | 16 | 15 | Crossings and signs | | 128 84 | 81 | 104 92 |
| 17 | 17 | 16 | Interlocking plants | | | | |
| 18 | 18 | 16 | Signal apparatus | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines | | 7,805 68 | 76 | 5,900 80 |
| 20 | 20 | 18 | Station buildings and fixtures | | 2,849 69 | 84 | 2,389 06 |
| 21 | 21 | 18 | Platforms, walks, paving and curb | | 283 16 | 81 | 229 60 |
| 22 | 22 | 19 | General office buildings and fixtures | | | | |
| 23 | 23 | 20 | Shop buildings and engine houses | | 6,210 06 | 81 | 5,162 46 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc. | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures | | | | |
| 26 | 26 | 21 | Shop machinery and tools | | 2,991 94 | 69 | 2,084 37 |
| 27 | 27 | 22 | Water stations | | 14,550 18 | 73 | 10,685 92 |
| 28 | 28 | 23 | Fuel stations | | 2,758 63 | 79 | 2,205 70 |
| 29 | 29 | 24 | Grain elevators | | 469 45 | 95 | 450 59 |
| 30 | 30 | 25 | Storage warehouses | | | | |
| 31 | 31 | 26 | Dock and wharf property | | 48,238 50 | 71 | 34,517 83 |
| 32 | 32 | 27 | Electric light plants | | | | |
| 33 | 33 | 28 | Electric power plants | | | | |
| 34 | 34 | 29 | Electric power transmission | | | | |
| 35 | 35 | 30 | Gas producing plants | | | | |
| 36 | 36 | 31 | Miscellaneous structures | | 8,608 77 | 71 | 6,164 86 |
| 37 | 37 | 32 | Transportation of men and material | | | | |
| 38 | 38 | 33 | Rent of equipment | | | | |
| 39 | 39 | 34 | Repairs of equipment | | | | |
| 40 | 40 | 35 | Earning and operating expenses during construction | | | | |
| 41 | 41 | 35 | Injuries to persons | | | | |
| 42 | 42 | 36 | Cost of road purchased | | | | |
| 43 | 43 | 37 | Steam locomotives | | 49,995 00 | 66 | 36,562 00 |
| 44 | 44 | 38 | Electric locomotives | | | | |
| 45 | 45 | 39 | Passenger train cars | | 10,100 00 | 86 | 8,358 00 |
| 46 | 46 | 40 | Freight train cars | | 169,282 00 | 78 | 135,388 00 |
| 47 | 47 | 41 | Work equipment | | 18,552 91 | 80 | 14,839 80 |
| 48 | 48 | 42 | Floating equipment | | | | |
| 49 | 49 | 43 | Law expenses, 1 per cent of R. V. of classes 3 to 36, inclusive | | 12,461 47 | 100 | 12,461 47 |
| 50 | 50 | 44 | Stationery and printing, included in class 37 | | | | |
| 51 | 51 | 45 | Insurance, included in class 55 | | | | |
| 52 | 52 | 46 | Taxes, included in class 55 | | | | |
| 53 | 53 | 47 | Interest and commission, 3 per cent of R. V. of classes 3 to 53 | | 45,265 39 | 100 | 45,265 39 |
| 54 | 54 | 48 | Other expenditures, 1/2 of 1 per cent of R. V. of classes 3 to 53 | | 7,544 23 | 100 | 7,544 23 |
| 55 | 55 | 49 | Stores and supplies on hand for use in California | | 37,507 89 | 100 | 37,507 89 |
| 56 | 56 | 50 | Grand total | | \$1,724,900 05 | 92 | \$1,584,764 77 |
| 57 | 57 | 51 | Average per mile for main track | | 40,329 67 | 92 | 37,053 19 |
| 58 | 58 | 52 | I. C. C. accounts 1 to 36—road accounts | | 1,371,883 79 | | 1,274,530 62 |
| 59 | 59 | 53 | I. C. C. accounts 37 to 42—equipment | | 187,929 91 | | 145,117 80 |
| 60 | 60 | 54 | I. C. C. accounts 43 to 48—general expenses | | 65,271 99 | | 65,271 99 |
| 61 | 61 | 55 | I. C. C. accounts 2 and 3—right of way and real estate | | 125,736 32 | | 125,736 32 |

DECISION No. 1186.

IN THE MATTER OF THE APPLICATION OF CUYAMACA
WATER COMPANY, OWNED BY JAMES A. MURRAY AND
ED FLETCHER, FOR AN ORDER ESTABLISHING RATES
AND CHARGES FOR WATER SUPPLIES BY PUMPING.

Application No. 756.

Decided December 31, 1913.

Held, That applicant is not entitled, at the present time, to the increase in rates as applied for. Application held in abeyance until applicant has complied with the requirements of the Commission's decision in Application No. 118.

Ed Fletcher, in propria persona, representing applicant.

D. G. Gordon, representing certain water consumers.

Haines & Haines, representing certain water consumers.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Applicant is a water utility owned by James A. Murray and Ed Fletcher in the county of San Diego, State of California, known as the Cuyamaca Water Company, formerly known as the San Diego Flume Company.

An application was filed with the Commission in 1912 by applicant herein applying for an order authorizing an increase in the rate for water to be charged to its consumers in the county of San Diego; that Application No. 118 was heard and thereafter a most exhaustive opinion rendered on the 28th day of March, 1913.

We quote from the findings and order of the Commission in that application:

The Commission further finds as a fact that the applicants have in their control an ample supply of water, if the excessive losses are prevented, to supply the reasonable demands of their consumers and to increase the supply available to them for their use by 33½ per cent.

The Commission further finds as a fact that the flume of this system heretofore referred to and described in the opinion, has entirely passed its useful life and that it should be at once renewed.

The above quotations are from the findings of fact. The following are from the order:

It is hereby ordered that the applicants herein begin immediately the construction of a flume in lieu of the one now used, which flume shall be of a character satisfactory to this Commission after

the plans therefor have been submitted to it, but shall in any event be a closed flume or conduit of suitable material to be determined on the submission of the plans to this Commission; and

It is further ordered that within thirty (30) days from the date of this order that the applicants file with this Commission plans and specifications of said flume; and

It is further ordered that said applicants take immediate steps to increase the available supply of water so that the same may be increased over the present available supply at least $33\frac{1}{3}$ per cent. While the Commission does not at the present prescribe details with reference thereto it reserves and does not finally determine this question, and in the event that these applicants do not within a reasonable time in the opinion of the Commission begin the construction of other facilities than the ones specifically ordered herein, this particular matter being held open for decision and for the further submission of evidence, will again be considered by this Commission after due notice to the applicants and the parties hereto as required by law;

It is further ordered that each and every portion of this order is made in contemplation of the performance by the applicants of every other portion thereof, and that this order is not to be considered as separable, and that no rates other than the ones that are now being charged by these applicants may be charged or collected, until said applicants have complied with all of the provisions of this order or shall satisfy this Commission that they are in good faith proceeding to comply therewith.

In a later decision, the foregoing decision upon Application No. 118, *supra*, was amended, fixing the rate to be paid by the Pacific Building Company at 18 cents per one thousand gallons, therein being an exception to the order that the rate for domestic use be 25 cents per one thousand gallons.

The decision was afterwards modified somewhat as to the form of the flume and still later as to the repairs of the old flume, but these matters require no further reference at this time.

The rates named in Application No. 118, *supra*, were to take effect July 1, 1913, provided the order of the Commission as to the repairs to the system and increasing the supply by $33\frac{1}{3}$ per cent had been complied with at that date.

It is evident that applicant did not comply with these conditions by July 1st, but on that date began to collect, and thereafter did collect, the rates named in Application No. 118, *supra*. No protests from consumers as to the increased rates were received, but numerous letters and telegrams were received in July and August declaring that there was great danger of a shortage of water and that applicant had not taken steps to guard against such shortage. Thereupon, a telegram was sent by the Commission to applicant reading as follows:

“Supply of water on hand available for consumers under Cuyamaca Water Company’s system so low extreme danger of water

famine. Commission hereby directs you immediately to increase your supply by pumping plant or otherwise. Commission will permit you to charge excess rate to cover reasonable cost of temporary additional supply, such rate not to exceed 10 cents per thousand gallons. Wire answer immediately."

Applicant now asks that it be repaid the cost of installing and operating and the pumping plants through increased rates, such increased rates to be sufficient to amortize such expense in three years' time.

At the hearing, applicant amended its application and asked that its revenues be increased by a certain sum which applicant claims it lost through a mistaken use of the water furnished the El Cerrito Park Water Company.

It appearing that some of the land which applicant had purchased for the purpose of installing the pumping plants, in compliance with the Commission's order, is not used and useful to the public utility, applicant also asked to amend its application by deducting the value of such land from the amount prayed for as reimbursement for installation and pumping operations.

Applicant claims that it has expended, and is expending, large sums of money in repairing its plant and that it will soon have complied with the order of the Commission in Application No. 118, *supra*.

It is very evident that when applicant shall have complied with that order it will apply to the Commission for a readjustment of rates and it is clearly evident that, as Judge Haines, of counsel for protestants, said at the hearing of the present application, the matters and things brought up in the present application, to wit, whether applicant is entitled to be reimbursed for installation of pumping plants; if so, whether such reimbursement shall be by increased rates or the amount added to capital account; and if by increased rates, whether such increased rates shall apply to all use or only to consumers so situated as to receive pumped water; and whether applicant is entitled to have the amount claimed to have been lost through the mistaken use of the El Cerrito Park Water Company added to its income; are questions which can not be properly decided without again going into the whole matter and having a practical rehearing of the former application, with possibly a revaluation of the plant, etc.

Some of these questions, as has been recited, were brought into the hearing of the present application through amendments to the application, at the hearing, with the result that neither applicant nor protestants had sufficient time to present them as they would have liked to and as the Commission would like to have had them present them.

I believe and find as a fact, first, that applicant is not entitled at this time, or at any other time, to any increase in rates until it shall have

complied with the order of the Commission in Application No. 118, *supra*, to the satisfaction of the Commission; second, that the interests of all concerned will best be served by holding the matters and things involved in this application in abeyance until applicant has complied with the order in Application No. 118, *supra*, to the satisfaction of the Commission, when the applicant may apply to the Commission for a readjustment of its rates and the whole matter gone into in such a way as to develop the equities of the situation.

I recommend the following order:

ORDER.

James A. Murray and Ed Fletcher (the Cuyamaca Water Company) having applied to the Commission for increased rates over a period of three years to amortize the expense of installing pumping plants, and having, by amendment to its application, asked that its revenues be increased by a certain sum which it claims to have lost through mistaken use of the water furnished the El Cerrito Park Water Company, and, by a further amendment, asked that the price of certain land purchased at the time the site for installing pumps was purchased, such land not being devoted to the use of the public utility, may be deducted from the sum asked for as reimbursement for the expense of installing and operating the pumping plants;

And the Commission having found as a fact that applicant is not entitled at this, or any other time, to any increase in rates until it shall have complied with the order of the Commission in Application No. 118, *supra*, and that the interests of all concerned will best be served by holding the matters and things herein involved in abeyance until applicant shall have complied with the order in Application No. 118, *supra*,

It is hereby ordered that no decision be rendered at this time in the present application further than that it be held in abeyance, pending compliance by applicant with the Commission's order in Application No. 118, *supra*; and that applicant be advised that, upon such compliance with the order of the Commission in Application No. 118, *supra*, it may apply for a readjustment of its rates, at which time the whole matter will be considered and adjusted.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

DECISION No. 1187.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-OREGON POWER COMPANY TO FIX ITS REGULAR RATES FOR ELECTRIC SERVICE IN THE TOWNS OF SHASTINA AND EDGEWOOD, SISKIYOU COUNTY, CALIFORNIA.

Application No. 796.

Decided December 31, 1913.

Applicant permitted to continue in effect its present schedule of rates as charged in the towns of Shastina and Edgewood, Siskiyou County. Such permission not to be considered as holding said rates to be reasonable.

Alex J. Rosborough, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by the California-Oregon Power Company, a corporation, for permission to establish its regular rates for electric service in the towns of Shastina and Edgewood, in Siskiyou County.

On May 24, 1913, this Commission issued its opinion and order in the matter of Application No. 478, being joint application by R. E. Cavanaugh and California-Oregon Power Company in which the former requested permission to sell and the latter requested permission to purchase the electric lighting plant theretofore owned by said R. E. Cavanaugh in the town of Edgewood, Siskiyou County. The Commission's order in the matter of said Application No. 478 granted permission for the sale and purchase of said electric lighting plant at Edgewood, as requested, upon the following conditions:

1. The price of ten thousand (\$10,000) dollars paid for this property shall not be binding upon this Commission or any other public authority in any rate fixing inquiry.

2. This transfer shall not be used to increase any rate to the patrons of R. E. Cavanaugh; the rates at which said R. E. Cavanaugh furnishes electricity to his patrons shall remain in effect until the Commission shall have determined whether or not the rates proposed by the California-Oregon Power Company are in excess of such rates then prevailing on the system of R. E. Cavanaugh; and any amount in excess of said rates heretofore collected shall be immediately refunded to the consumers from whom such excess has been collected.

It appears from the evidence in this case that on or about September 1, 1912, at the suggestion of the California-Oregon Power Company,

which was then negotiating for the purchase of the Edgewood plant, R. E. Cavanaugh, then owner of said plant, established and put into effect without first obtaining permission from this Commission, the same rates for electric service as were being charged over the California-Oregon Power Company's system in California. These rates so established by R. E. Cavanaugh were materially in excess of the rates previously in effect in the territory served by the said Edgewood plant, subsequently when the California-Oregon Power Company was about to consummate the purchase of the plant and system then owned by R. E. Cavanaugh the attention of the Power Company was called to the fact that before purchase could be made and the ownership of the property transferred, it would be necessary for the prospective seller and purchaser to obtain permission from this Commission under the provision of section 51, Public Utilities Act, and accordingly Application No. 478 heretofore referred to was filed with the Commission.

The present application was made by the California-Oregon Power Company for the purpose of establishing the fact that its present rates in the towns of Shastina and Edgewood, Siskiyou County, are the same as those previously in effect when the Edgewood plant and system were owned by R. E. Cavanaugh and the primary purpose of this proceeding is to determine whether or not the Commission's order in the matter of Application No. 478 can become effective.

While it is evident from the evidence introduced at the hearing of this application that the California-Oregon Power Company was at least partly responsible for the establishment by R. E. Cavanaugh of an illegal rate, it also appears that the increase in rates referred to was made effective throughout the territory served by the Edgewood plant prior to the time when the California-Oregon Power Company nominally assumed control of that property, and it is also evident that no legal transfer of the property could be made until the Commission's order in the matter of Application No. 478 became effective.

In view of the fact that the real purpose of this proceeding can not under the circumstances be considered as requiring a general rate investigation for the reason that the application was made by the California-Oregon Power Company in order to determine whether or not a previous order entered by the Commission in the matter of said Application No. 478 could become effective, I am of the opinion that the Commission's decision at this time should be confined to the subject of whether or not applicant has in effect complied with the Commission's order heretofore referred to.

At the hearing of the present application, held at Sisson on November 21, 1913, it was stated that the California-Oregon Power Company was

DECISION No. 1187.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-OREGON POWER COMPANY TO FIX ITS REGULAR RATES FOR ELECTRIC SERVICE IN THE TOWNS OF SHASTINA AND EDGEWOOD, SISKIYOU COUNTY, CALIFORNIA.

Application No. 796.*Decided December 31, 1913.*

Applicant permitted to continue in effect its present schedule of rates as charged in the towns of Shastina and Edgewood, Siskiyou County. Such permission not to be considered as holding said rates to be reasonable.

Alex J. Rosborough, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

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1. The price of ten thousand (\$10,000) dollars paid for this property shall not be binding upon this Commission or any other public authority in any rate fixing inquiry.

2. This transfer shall not be used to increase any rate to the patrons of R. E. Cavanaugh; the rates at which said R. E. Cavanaugh furnishes electricity to his patrons shall remain in effect until the Commission shall have determined whether or not the rates proposed by the California-Oregon Power Company are in excess of such rates then prevailing on the system of R. E. Cavanaugh; and any amount in excess of said rates heretofore collected shall be immediately refunded to the consumers from whom such excess has been collected.

It appears from the evidence in this case that on or about September 1, 1912, at the suggestion of the California-Oregon Power Company.

which was then negotiating for the purchase of the Edgewood plant, R. E. Cavanaugh, then owner of said plant, established and put into effect without first obtaining permission from this Commission, the same rates for electric service as were being charged over the California-Oregon Power Company's system in California. These rates so established by R. E. Cavanaugh were materially in excess of the rates previously in effect in the territory served by the said Edgewood plant, subsequently when the California-Oregon Power Company was about to consummate the purchase of the plant and system then owned by R. E. Cavanaugh the attention of the Power Company was called to the fact that before purchase could be made and the ownership of the property transferred, it would be necessary for the prospective seller and purchaser to obtain permission from this Commission under the provision of section 51, Public Utilities Act, and accordingly Application No. 478 heretofore referred to was filed with the Commission.

The present application was made by the California-Oregon Power Company for the purpose of establishing the fact that its present rates in the towns of Shastina and Edgewood, Siskiyou County, are the same as those previously in effect when the Edgewood plant and system were owned by R. E. Cavanaugh and the primary purpose of this proceeding is to determine whether or not the Commission's order in the matter of Application No. 478 can become effective.

While it is evident from the evidence introduced at the hearing of this application that the California-Oregon Power Company was at least partly responsible for the establishment by R. E. Cavanaugh of an illegal rate, it also appears that the increase in rates referred to was made effective throughout the territory served by the Edgewood plant prior to the time when the California-Oregon Power Company nominally assumed control of that property, and it is also evident that no legal transfer of the property could be made until the Commission's order in the matter of Application No. 478 became effective.

In view of the fact that the real purpose of this proceeding can not under the circumstances be considered as requiring a general rate investigation for the reason that the application was made by the California-Oregon Power Company in order to determine whether or not a previous order entered by the Commission in the matter of said Application No. 478 could become effective, I am of the opinion that the Commission's decision at this time should be confined to the subject of whether or not applicant has in effect complied with the Commission's order heretofore referred to.

At the hearing of the present application, held at Sisson on November 21, 1913, it was stated that the California-Oregon Power Company was

engaged in the preparation of an inventory and valuation of its entire properties and that this would be completed not later than February 15, 1914. Because of the fact that the Commission is not in a position to initiate a general investigation of the rates charged by applicant until either the company's inventory is completed and filed with the Commission or an independent valuation undertaken by the Commission itself, I do not believe that applicant should be denied the relief requested in its present application pending the outcome of any rate investigation which the Commission may hereafter make when fully advised of the facts in connection with the applicant's investment and business in general.

In view of the facts hereinbefore stated I recommend that the application be granted and submit herewith the following form of order :

ORDER.

California-Oregon Power Company having applied to this Commission for permission to establish its regular rates for electric service in the unincorporated towns of Shastina and Edgewood, Siskiyou County, and it appearing that this permission is necessary in order that permission heretofore granted to applicant by the Commission to purchase the electric lighting plant of R. E. Cavanaugh may become effective, and it further appearing that the permission requested should be considered independently of any question relative to the reasonableness of the rates charged by applicant or its predecessor in interest,

It is hereby ordered that California-Oregon Power Company be and it is hereby authorized to continue in effect the present rates charged by it for electric service in the towns of Shastina and Edgewood, Siskiyou County, on the following express conditions:

1. Applicant shall, within ten days from the date hereof, notify the Commission in writing that a copy of the inventory and valuation of its entire properties will be filed with the Commission not later than February 15, 1914.

2. It is distinctly understood that the authority hereby granted is for the express purpose of permitting the Commission's order in the matter of Application No. 478 to become effective, and is not to be construed as an approval of the rates hereby authorized, or in any way to pass upon the question of the reasonableness of said rates.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

DECISION No. 1188.

IN THE MATTER OF THE APPLICATION OF PALERMO LAND
AND WATER COMPANY FOR PERMISSION TO MAKE
INCREASES IN CHARGES FOR WATER SUPPLIED FOR
DOMESTIC PURPOSES, IRRIGATION AND OTHER USES IN
AND IN THE VICINITY OF THE TOWN OF PALERMO,
BUTTE COUNTY, CALIFORNIA.

Application No. 337.*Decided December 31, 1913.*

Applicant asks permission to increase its present irrigation rate from 12½ cents to 25 cents per miner's inch per day of twenty-four hours, and to increase its dredging rate 25 per cent.

Held. That an increase of 20 per cent of existing rates for water furnished dredgers and for irrigation will permit of just and reasonable rates, which rates are ordered into effect by January 20, 1914.

McCutchen, Olney & Willard and J. N. Mannon, for Applicant.

A. N. Davis and A. E. Richardson, for Consumers.

REPORT OF THE COMMISSION.

ESHLEMAN, Commissioner.

The application herein was filed December 23, 1912. The first hearing was held at Oroville February 10, 1913, and subsequently hearings were held on April 17th and September 29th of the same year. The delays were occasioned by the wide discrepancy between the testimony of the engineers for the applicant and for this Commission. Subsequent to the last hearing time was given for the filing of briefs, and the last brief in the case was filed December 22, 1913. I have had every desire to expedite the proceedings in this case, but apparently through no fault of any one this extensive time has been consumed in its determination.

The applicant was incorporated January 4, 1888, with a capital stock of \$500,000.00 divided into 5,000 shares of the par value of \$100.00 each, of which apparently only 1,500 were issued. The par value was reduced to \$50.00 per share in 1898, making the capital stock \$250,000.00, all of which is outstanding except 469 shares held in the treasury. The company was organized for the purpose of taking over certain lands and waterways in the neighborhood of Oroville and Palermo. The waterways consist of what are known as the Ophir Canal, Palermo Branch, Montana and Utah ditches. The lands involved amount to approximately 6,000 acres, of which about 3,000 acres are still retained and the remainder have been sold, as shown by the books,

for the net price of \$67,000.00. There is nothing in the books which discloses the cash consideration given by this company to its predecessor for the land and water system acquired. It appears that \$137,146.14 was received from the original stockholders, and unless we take this as the amount which was paid for the property we have no evidence of the original cost. The stock ledgers and other papers that might shed light on this matter were destroyed in the 1906 fire at San Francisco. It is suggested, however, that about \$50,000.00 was collected from the stockholders in addition to the purchase price which went into improvements at or soon after the time the property was acquired, and that this amount is included in the \$137,146.14. All of the testimony on these points is of such a nebulous character that I am unable to determine what the actual cost of this land and these canals was to the applicant originally.

The operations of the company from January 1, 1888, to December 31, 1912, as shown by its books, may be summarized as follows:

| | |
|----------------------|--------------|
| Land sales ----- | \$67,391 02 |
| Water sales ----- | 393,007 97 |
| <hr/> | |
| Total receipts ----- | \$460,398 99 |
| Expenditures ----- | 344,731 43 |
| <hr/> | |

| | |
|---|--------------|
| Excess of receipts over expenditures, January 1, 1888, to December 31, 1912----- | \$115,667 56 |
|---|--------------|

In this application the company seeks to change its present rate from 12½ cents to 25 cents per miner's inch per day of twenty-four hours, and to increase its dredging rate 25 per cent. Water is sold exclusively by so-called measurements on demand and not on an acreage basis. However, the rate or duty was fixed by contract at one inch to seven acres. The applicant claims, first, its maximum output has been reached; second, its income on the present output is diminishing and will further diminish due to cessation of work of dredgers now being supplied; and, third, the present return is inadequate for current expenses and a proper return on its investment.

Before taking up these matters in detail it is well to consider the physical conditions surrounding this company's system.

Applicant diverts water by means of a masonry dam from the south fork of the Feather River in section 6, township 19 north, range 6 east, M. D. M., and conducts its supply through an open earth channel, flume and tunnel for 21.7 miles to a point about 3 miles east of Oroville, known as Whitewashed Trees. Here division is made into various principal laterals ultimately distributing the water for the purposes of irrigation, gold dredging and domestic supply in the town of Palermo. The main canal of this company and certain of its principal laterals and some tributaries not now in use, were constructed about 1855 to carry

water to the vicinity of Oroville for hydraulic placer mining. Over this fact the then hydraulic engineer for this Commission, Mr. P. E. Harroun, and Mr. Arthur L. Adams, the engineer for the company, dispute; Mr. Harroun urging that this system was not such a system as would have been constructed had it been constructed for the purposes to which it is now devoted, and Mr. Adams urging that it is for all practical purposes a serviceable and adequate system. The other matters upon which these engineers differ are involved in the question of losses from the system, amount of water available, duty of the supply of water available and present value of the property, as that term is defined by the engineers. In fact, it has not been my privilege to have under consideration any case heretofore in which there was so much conflict between the experts as I find here to exist. Some of these differences of opinion I shall be able to resolve from the evidence itself.

The question of the suitability of this canal for its present use was called in issue by Harroun in his first testimony under analysis 3, wherein a saving of \$30,633.00 was shown, providing about $5\frac{1}{2}$ miles of the canal were replaced by a tunnel or pipe line. In the last values presented upon which all parties have practically agreed as to quantities, the saving by this proposed substitution would be still greater, but the estimates used here were based on incomplete data except as to lengths involved.

In order properly to determine the issues in this case it will be necessary to discuss, first, the value of the property properly devoted to the public use; second, the expense of conducting the business; and, third, the amount of water which may be sold. From a consideration of these matters we may arrive at a conclusion as to the proper rate to be established.

As is well established, several factors must be considered in determining the value of a public utility property. I have already discussed the questions of original cost and outstanding stocks and bonds, and nothing further need be said concerning these matters.

Mr. Adams, the company's engineer, in applicant's Exhibit No. 16, submits the following as the conclusions to be deducted from his revised inventory and appraisal:

| | |
|-----------------------|--------------|
| Cost to reproduce new | \$399,705 00 |
| Present value | 331,237 00 |
| Annual depreciation | 6,231 00 |

Prior to that time, at the first hearing of the case on February 10th, he submitted the following:

| | |
|-----------------------|--------------|
| Cost to reproduce new | \$350,192 00 |
| Present value | 289,929 00 |
| Annual depreciation | 5,684 00 |

While Mr. Harroun testified on the same items as follows:

| | |
|----------------------------|--------------|
| Cost to reproduce new..... | \$327,170 00 |
| Present value | 112,851 00 |
| Annual depreciation | 6,022 00 |

The most substantial difference between the engineers on these questions of valuation is found in the item "present value," and is occasioned by the use of different methods of computing accrued depreciation. There were also differences in unit prices, which accounted for the difference between the reproduction new of Mr. Adams and that of Mr. Harroun. But the great and irreconcilable difference is found in the item "present value," and is caused, as has been said, by the different methods adopted of computing accrued depreciation—Mr. Harroun using the so-called straight line method and Mr. Adams a modified curve line method. The engineer for the applicant contends that as the main canal and principal laterals are in as efficient condition as they have been at any time in the past they should not be depreciated. Both Mr. Adams and Mr. Harroun use a useful life of seventy-five years for canals of this character, and there is no substantial difference between them except in the manner of computing the depreciation which has already taken place. Without going at length into this subject, it is well to call attention to the fact that since the Knoxville and Wilcox cases it is well established that depreciation which has actually occurred but which has not been taken care of in the rates heretofore shall nevertheless be deducted from the value of the property, and the property in its present condition is that which must be considered. If, as is urged by applicant, the modified curve line for depreciation used by the engineer for the applicant has the effect of imposing upon the present users of a utility burdens necessary to take care of depreciation that has heretofore occurred and not been taken care of, then, of course, such a method should not be adopted by this Commission. That it does have such an effect in the present case to a greater or less degree is evidenced by the fact that although these canals have passed nearly two thirds of their useful life, according to the testimony of both engineers, still they have depreciated, under Mr. Adams' theory, a comparatively small amount. The applicant urges that regardless of the fact that its engineer's position as to the useful life of canals is correct from a theoretical standpoint, yet actually depreciation has not occurred in the canals, and that because of the fact that the canals are in substantially as good condition as though they were new we should compute seventy-five years of useful life from the present time. It is a peculiar theory that depreciation will occur in the future under a set of conditions when it appears that historically under the same conditions such depreciation has not taken place. In other words, I am inclined to take the view that both

of the engineers, from the evidence, are unwarranted in their conclusion that seventy-five years is the useful life of these canals. I am inevitably drawn to this position if I believe the evidence to the effect that these canals are in as good, if not better, condition than they were fifty years ago. Mr. Harroun urges that obsolescence shall be considered in place of physical depreciation, and I would be inclined to take that position if it were not that the company contends that such is not the case. If depreciation has not taken place in these canals and obsolescence is not to be considered, then the matter is quite simple. No one may have his pie and eat it. If depreciation plus obsolescence has not had the effect to reduce the value of this property two thirds in fifty years, then we should not allow that amount annually to take care of these items which would be required if these items actually had had the effect over the fifty years of subtracting from the value to the extent suggested. In short, it makes very little difference in fixing rates in this case whether \$6,000.00 annually in interest on additional property be allowed or \$6,000.00 annual depreciation. If, as a matter of fact, only a very small amount of physical depreciation has historically occurred during each of the years of the life of this property, then judging the future by the past I am justified in estimating that probably only a like amount will occur in the future.

As I have already stated, the cost in unit prices accounts for the difference in reproduction new which we find to exist in the values of these engineers. The greatest difference is found to be in the cost for removing rock. Harroun testifies to a number of concrete instances that have come regularly before the Commission in which \$1.25 is the unit cost allowed per cubic yard of rock excavation, and this in small quantities and in inaccessible places, somewhat similar to this company's main canal. As against this Mr. Adams used \$2.00 per cubic yard.

I do not intend in this case, nor do I feel justified, in finding formally on the question of value. I would like to do so, but with evidence as conflicting and divergent as I find here to exist, and with the possibility existing of fixing what I think is a fair rate under the present circumstances, which may be revised as conditions warrant, I will proceed to fix such rate on the basis of all of the evidence presented rather than hold the matter longer in abeyance until experts can be found who will more nearly agree, if such can ever be done. Besides, these physical engineering questions of value are not, in my opinion, such controlling elements as they have in so many cases in the courts been considered.

In considering the question of annual charges which it is necessary for this company to earn, Mr. Adams, in Exhibit 16, assuming the present value found by him, decided that on a return of 5 per cent on the

investment the company should earn \$38,547.00 annually; on a return of 6 per cent \$42,059.00; and on a return of 7 per cent \$45,571.00; while Mr. Harroun on the basis of his present value and a 6 per cent return contends that \$23,393.00 will pay all the operating expenses, take care of depreciation and give a proper return upon the property. To obtain the return said to be necessary by the applicant's witnesses to pay operating expenses and 6 per cent on the value found, the system to be operated with no greater efficiency than in the past and the demand to remain the same, the rate per miner's inch per day would be 48 cents instead of 12½ cents as now provided. Under Harroun's calculations, assuming the demand and supply to be the same as at present but taking the other items found by Harroun to be correct, it would be necessary to have a rate of 26.6 cents per miner's inch per day. However, should Harroun's estimate of safe yield be used, assuming the use by dredgers in the approaching period of years to be reduced to 106 inches, water will be available for irrigation of very nearly 3,500 acres instead of the 1,984 acres that are now irrigated. To be sure the company contends that the number of acres to be irrigated is immaterial to it because of the fact that the water is measured and sold at so much an inch, and that the number of acres to which the water is supplied makes no difference in the revenue secured. If this were the proper method of conducting an irrigation system, the company's contention would be correct, but I do not believe this is the proper method, and besides, as has already been said, by a proper control of the supply the present acreage could in all likelihood be supplied with all water required and water remain for use upon other lands that are now demanding it and from which an added revenue would result. While it is not to be assumed that the users of water who are patrons of this company desire to waste the water and desire to take more water than is necessary with the result that their water bills shall be higher, yet the power of irrigators to take water at will and always to determine the time at which the supply shall be delivered to them inevitably reduces the duty of the system, as has already been shown.

In the application on file the applicant alleges that the value of its property is \$289,000.00 and that the total amount received for water during the year 1911 was \$24,328.22; that its disbursements during the same period for maintenance and operation and general expenses incurred in operating this system, together with taxes, were \$14,754.85; that the proper amount to be allowed annually for depreciation is \$5,683.00; and that consequently its net earnings for this year were only \$3,889.00 which represents but 1½ per cent upon the value for which the company contends. It is alleged, however, that the expenses of the year cited exceed the normal by about \$1,500.00, which expenditure

was incurred in negotiations looking to the sale of this property. It is further urged that the net revenue during the year 1913 will be approximately \$5,200.00, which is less than 2 per cent on the value of its property, and that if it be allowed to double its irrigation rate and increase its dredging rate by 25 per cent it will not be receiving an income which will amount to more than 6 per cent on the value of its property.

Coming now to the question of the amount of water available for use we find equally divergent views, but I am satisfied in this respect the engineer of the Commission has been somewhat in error; the main error, in my opinion, has resulted from the following of United States geological records as to the amount of water in the Feather River below the dam at certain seasons of the year, which records were taken beyond the mouth of an incoming stream and represent not only the amount of water flowing over the dam, but likewise the amount added by a creek sometimes called McCabe and sometimes called Cape Creek. It is urged, however, that granting only the amount of water available in the river for which the company contends, there is a considerable loss of water through wasteful methods of distribution and lax measurements of water delivered. Mr. A. S. Riehl, superintendent of the company, denied that any waste occurred, but later qualified his testimony by admitting that the changing of the head from one ditch to another would sometimes cause a loss of a day's run of water. No definite measurements whereby the amount of water actually wasted could be determined were available. Water is delivered as nearly as may be upon demand for use upon the lands which the company considers entitled thereto. No particular control is maintained over the order in which the consumers shall receive water, but Riehl testified that when he had no water available, that is, when all of his supply of water was being used, and others demanded water, they would have to wait until he had water available. It is easy to see that the excess demand may exist for one week and a number of consumers be unable to receive the water for which they may have waited a considerable time before ordering and that in the week following there would be only one half the demand for the supply available. Certainly this condition should be corrected and the rotation method of distribution be established, whereby the use would have to be within certain times by different individuals or communities. All should be allowed the use of water within sufficiently short periods to insure sufficient irrigation service for the proper raising of the crops. The only thing that clearly appears from the evidence in regard to the amount of water wasted is that during short periods of exceptionally maximum demand there is little probability of any considerable waste.

It is clear to me that this is not the proper method of determining the amount of water which may be beneficially used, and until a

proper rotation and a proper supervision of this system in this and other regards are provided, and it then be shown that the maximum ability of this system to serve has been reached, I shall not believe such is the case. This is one of the few instances that has come to my attention in quite an extensive review of the irrigation systems of the State where some control is not attempted to be exercised, and I have yet to find consumers of an irrigation project who have objected to or were seriously injured by such control when reasonably exercised.

The loss of water by seepage and evaporation from the ditch system was based by Adams upon a single measurement of the amount of water at the head of the canal and at Whitewashed Trees, and on the further assumption that on that day all of the water available was being put to beneficial use. It further appears that the total land irrigated during the year 1912, which was the year considered, was 1,984 acres. The assumption that all the water possible to deliver was being used on that day, and that for that reason no water would at any time in the season be wasted from the supply possible to obtain, is not tenable. It is neither proven that all the water was being used nor that the day before nor the day following an equal demand would exist. On April 23d and 24th, 1913, Commission employees made measurements determining the seepage loss in a large part of the system, and applying the results obtained on these measurements to the remaining portion, concluded that 42 per cent of the water diverted would be lost by seepage were the entire system operating. The amount of water then being diverted was very closely equal to the average flow obtained during August of 1912, the minimum month for that year. It is testified that the seepage loss in canals varies almost directly with the area of the surface wetted. That in all canals at their maximum capacity the area will be increased in a much less proportion than is the amount of water carried, and the seepage loss under such condition would then be a less percentage than we found at a stage of flow where the canals are not nearly full.

It is not proper, therefore, to apply the same percentage of loss to the quantity of water running in the canals when they are full as applies when they are only partially full. This, with the conclusion that the maximum demand upon the system, particularly a system where rotation in delivery is not required, fixes the duty of the system, are the two fallacies which seem to me to be apparent in the computations submitted by the engineer for the applicant. This does not lead me to conclude that the computations of Mr. Harroun are entirely correct. The water users strenuously object to the method suggested by Mr. Harroun, and I am inclined to believe that he has too far spread out the available supply of water, but I am equally of the opinion, as has already been said, that until reasonable rotation is tried with a view

to keeping the canals of this company during the irrigating season doing their full duty, or at least taking up at all times all of the water in the river available up to the capacity of the canals, it has not been shown that the capacity of the system has been reached, and I am somewhat surprised that the officers of this company have not seen fit to require their local representatives to enforce such a reasonable rule. I advise that the Commission authorize such a rule to be adopted, and if restrictions be imposed that are burdensome to the irrigators under this permission, the matter may be brought to the attention of the Commission and what is proper in view of all the facts determined.

The applicant, as has already been said, bases its opinion that the safe yield of the system has been reached upon one measurement, and the assumption that the system was to be used at its then efficiency. At the time of this measurement, 5.12 cubic feet per second, it was estimated, was being used by the dredgers, seven of which were in operation. The testimony shows that but three of these dredgers will remain in operation beyond the end of the year 1913, and will pay a combined rate of \$500.00 per month, or for the year \$6,000.00. Of the 256 inches which it is testified is now being used by the dredgers, 150 inches will become available at this time for irrigation. The present rate of use for irrigation appears to be about 1 miner's inch to 4 acres of land. At that rate, 150 inches will irrigate 600 acres, or at 7 acres to the miner's inch, which is the duty established by the contracts, this 150 inches will irrigate 1,050 acres. Mr. Harroun's Exhibit No. 2, reference to which has already been made in discussing the amount of water flowing over the dam, shows that on the assumption therein contained, 4,380 acres of land can be irrigated. These results were attacked by the applicant and it was established that the run-off data which had been derived from records of the U. S. Geological Survey included the run-off available for this company from the watershed of Cape Creek, which enters above the government gauging station and below the diverting dam. A very considerable amount of testimony was also produced by affidavits calculated to bear out the contention of the applicant that the safe yield of the system should be based upon August, 1912, a month and year considerably under normal supply, as disclosed by the record. But these affidavits do not take account of the fact to which I have already referred, that the measurements of this system and in this month are made under an uncontrolled demand, and that no rotation exists. During this month the records used by all parties show 1,455 acre feet to have been diverted into the canal. Of this amount the applicant's witnesses consider that 528 feet become available for irrigation at the land after the deduction of that used by the dredgers at the rate of 5.12 cubic feet per second and the ditch loss of 42 per cent.

There was some testimony to the effect that the loss of 42 per cent was an under estimate, and Mr. Harroun uses 520 acre feet as the supply available. This, it is testified, is equivalent to the average rate of flow of 432 miner's inches and would be sufficient at 4 acres to the miner's inch, for 1,728 acres, and at 7 acres to the miner's inch for 2,950 acres. While possibly this last might not be all the user would desire, and while the duty of water so fixed would probably not be sufficient throughout the entire season, yet it does not follow that with proper rotation the duty of this system will not be found to be considerably in excess of that now attributed to it, and it is my firm belief that with proper and careful local management, and more constant care and attention to the actual delivery and distribution of the water, a considerable acreage in addition to that which is now irrigated may safely receive water from this system; and I reach this conclusion independent of the suggestion that the loss from seepage and evaporation is excessive, but it clearly appears to me that if during the time of maximum demand the canal would continually carry all of the water in the river up to its capacity, instead of occasionally doing so, the losses from these causes would also be lessened.

Before leaving this branch of the case I desire to call attention to the matters discussed in the *Cuyamaca Case*, 2 Cal. R. R. Com. 464. Manifestly, as was there stated, if it is insisted that there shall at all times be on hand sufficient water to satisfy the maximum demand for water, then at all other times than the very period of maximum demand there must be water wasted. On the other hand, if the duty of a system be considered as fixed by the maximum amount of land which may be irrigated at the period of minimum demand and maximum supply, we will have a condition where ordinarily and as a rule irrigators can not secure sufficient water for their needs. I am very firmly convinced that the duty of a system can not be determined as the acreage which may be irrigated under either one of these conditions, the first being too wasteful of this important natural resource, water; and the second being destructive to profitable agriculture.

I have thus discussed the evidence somewhat in detail and commented thereon in order that it may appear that the questions involved in this case are not free from doubt. I have eliminated for the present the contention of the consumers that the system is constructed in a manner suitable to irrigate a much larger tract of land than there is water available to irrigate, and neither have I considered with the care which may be necessary in a subsequent proceeding the contention of the engineer of this Commission that the system is not such a one as would be constructed if irrigation had been the original design. I am of the opinion certainly that this system under the present condition should pay

operating expenses, a reasonable depreciation and a proper return upon the fair value of the property when found, unless that value is impaired because the system is too large from the standpoint of the possible service capacity. But before a final determination of these questions can be made it will be necessary for us to have before us the system operated differently than it is now operated. It does appear to me, however, that some increase in the revenue is justified, particularly because of the working out of the dredgers. If I take the testimony of the engineer for the applicant I will find a rate warranted which might be well beyond the ability of the consumers to pay. On the other hand, if I take the testimony of our own engineer in its entirety, I will find no increase justified. I desire to say quite plainly that I do not believe for a moment that the value of this property is \$289,000.00. I desire, further, to state that I do not believe that approximately \$6,000.00 should be set aside annually for depreciation, if I am to believe any of the testimony which is presented other than the computations of the engineers. Neither do I believe that all of the land which may be easily irrigated without detriment to the present consumers under this system is now being irrigated, nor do I believe that the local management of this company is as efficient as it should be. And I find myself in this state of mind with this condition of evidence, required to decide this case, and I shall attempt to recommend an order which under all the circumstances seems to me to be as nearly fair as I can make it. Before doing so, however, I desire to state that I do not believe the company's attitude with reference to the apportionment of the water of the system to new lands is at all proper, and while this is not formally before the Commission and no order can be made with reference thereto, it is very apparent that contention will result if the company maintains its present attitude. It is admitted that on the cessation of the work of the dredgers it will be possible to include new lands under this system which have not heretofore been irrigated. It is also my belief, as I have heretofore stated, that lands in addition to these may be safely irrigated. I suggest, without of course deciding, that equity would demand that those who have heretofore purchased a so-called water right from this company, regardless of whether or not they have used the water, should, other things being equal, be given preference. But I believe the available water should be apportioned first to those whose lands are ready to receive it and beneficially use it, and as between such, those that have heretofore paid money to the company for the right should be preferred. But in no event should those now ready to put the water to a beneficial use be denied the right to use the water because there are others who have purchased these rights but who are not ready to use the water.

I submit the following order:

ORDER.

Palermo Land and Water Company having applied to this Commission for an order fixing its rates for water to be delivered for irrigation and dredging purposes in the county of Butte, and a hearing having been held and being fully apprised in the premises, the Commission hereby finds as a fact that under all of the conditions at present existing an increase of twenty (20) per cent in the rate for water supplied to the dredgers and twenty (20) per cent in the rate for water delivered for irrigation purposes are justified.

And basing its order on the foregoing finding of fact, *it is hereby ordered,*

1. That the rate heretofore charged by the applicant to the dredgers taking water from its system be and the same is increased twenty (20) per cent.

2. That the rate charged for water supplied for irrigation purposes, namely, twelve and one half ($12\frac{1}{2}$) cents per miner's inch for twenty-four hours, be increased to fifteen (15) cents per miner's inch for twenty-four hours, and a rate of fifteen (15) cents per miner's inch for twenty-four hours is hereby established as a rate for irrigation to be charged by this applicant.

3. All other rates now in effect are hereby established.

4. The foregoing rates to be effective on the 20th day of January, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1913.

GRADE CROSSINGS.

| Dec. No. | App. No. | Applicant. | Location. | Action. | Date. |
|----------|----------|---|------------------------------------|-----------------|----------------|
| 769 | 628 | Central Pacific R. R. | Niles | Granted | July 2, 1913 |
| 776 | 631 | Southern Pacific Co. | Los Angeles | Granted | July 3, 1913 |
| 777 | 632 | Southern Pacific Co. | San Bernardino | Granted | July 9, 1913 |
| 778 | 633 | Pacific Electric Co. | Orange County | Granted | July 9, 1913 |
| 779 | 634 | Stockton Terminal & E. | Stockton | Granted | July 9, 1913 |
| 787 | 37 | Sacramento & Woodland .. | Mikon | Denied | July 11, 1913 |
| 799 | 640 | Solano County | Wolfskill | Granted | July 19, 1913 |
| 800 | 639 | Southern Pacific Co. | Compton | Granted | July 19, 1913 |
| 801 | 636 | San Bernardino Co. | San Bernardino County | Granted | July 19, 1913 |
| 802 | 615 | Orange County | Orange County | Granted | July 19, 1913 |
| 809 | 662 | Santa Cruz County | Davenport | Granted | July 29, 1913 |
| 810 | 643 | Southern Pacific Co. | Imperial | Granted | July 23, 1913 |
| 813 | 646 | Pacific Electric Ry. | San Fernando | Granted | July 29, 1913 |
| 816 | 644 | Southern Pacific Co. | Arcadia | Granted | July 24, 1913 |
| 817 | 656 | Morgan Hill | Morgan Hill | Granted | July 29, 1913 |
| 818 | 661 | City of Los Angeles | Los Angeles | Granted | July 29, 1913 |
| 819 | 654 | Southern Pacific Co. | Sacramento Co. | Granted | July 29, 1913 |
| 820 | 649 | Fresno Traction Co. | Fresno County | Granted | July 29, 1913 |
| 821 | 614 | A. T. & S. F. Ry. Co. | San Bernardino County | Granted | July 29, 1913 |
| 822 | 652 | Southern Pacific Co. | Fairfield | Granted | July 29, 1913 |
| 823 | 655 | Minkler Southern Ry. | Tulare County | Granted | July 29, 1913 |
| 824 | 653 | Southern Pacific Co. | Riverside Co. | Granted | July 29, 1913 |
| 825 | 263 | Southern Pacific Co. | Order of Ap- proval | Granted | July 29, 1913 |
| 826 | 658 | Peninsular Ry. Co. | San Jose | Granted | July 29, 1913 |
| 849 | 580 | Pacific Electric Ry. | Orange County | Granted | Aug. 6, 1913 |
| 856 | 670 | A. T. & S. F. Ry. Co. | Hanford | Granted | Aug. 11, 1913 |
| 859 | 684 | Standard Oil Co. | El Segundo | Granted | Aug. 11, 1913 |
| 860 | 669 | Southern Pacific Co. | El Centro | Granted | Aug. 11, 1913 |
| 865 | 665 | Southern Pacific Co. | Colusa and Glenn counties | Granted | Aug. 12, 1913 |
| 866 | 683 | Northwestern Pacific | Willits | Granted | Aug. 12, 1913 |
| 867 | 688 | A. T. & S. F. Ry. | Los Angeles | Granted | Aug. 12, 1913 |
| 870 | 690 | Southern Pacific Co. | Bloomington | Granted | Aug. 13, 1913 |
| 871 | 691 | Southern Pacific Co. | Lemoore | Granted | Aug. 13, 1913 |
| 877 | 692 | Southern Pacific Co. | Brawley | Granted | Aug. 15, 1913 |
| 884 | 67 | City of Los Angeles | Los Angeles | Dismissed | Aug. 18, 1913 |
| 885 | 696 | Northwestern Pacific R. R. .. | San Rafael | Granted | Aug. 18, 1913 |
| 886 | 697 | Northwestern Pacific R. R. .. | San Anselmo | Granted | Aug. 18, 1913 |
| 889 | 700 | Southern Pacific Co. | Santa Barbara | Granted | Aug. 19, 1913 |
| 890 | 701 | Southern Pacific Co. | Lancaster | Granted | Aug. 19, 1913 |
| 904 | 685 | Pacific Electric R. R. Co. | Riverside | Granted | Aug. 25, 1913 |
| 905 | 707 | Southern Pacific Co. | Tranquility | Granted | Aug. 25, 1913 |
| 906 | 708 | Southern Pacific Co. | Fresno | Granted | Aug. 25, 1913 |
| 911 | 674 | Western Salt Co. | La Punta | Granted | Aug. 28, 1913 |
| 917 | 687 | Pacific Electric Ry. Co. | Riverside | Granted | Aug. 30, 1913 |
| 918 | 715 | Western Pacific Ry. Co. | Sacramento | Granted | Aug. 30, 1913 |
| 919 | 709 | Southern Pacific Co. | Elk Grove | Granted | Aug. 30, 1913 |
| 920 | 710 | A. T. & S. F. Ry. Co. | Fresno County | Granted | Aug. 30, 1913 |
| 928 | 720 | County of Tulare | Venice Hill | Granted | Sept. 2, 1913 |
| 932 | 730 | City and County of San Francisco | San Francisco | Granted | Sept. 5, 1913 |
| 933 | 727 | Warren Creek R. R. Co. | Humboldt Co. | Granted | Sept. 5, 1913 |
| 935 | 735 | Central Calif. Traction | Sacramento | Granted | Sept. 8, 1913 |
| 936 | 706 | Stockton Terminal & E. | Stockton | Granted | Sept. 11, 1913 |
| 937 | 523 | Temescal Rock Company | Porphyry | Granted | Sept. 11, 1913 |
| 938 | 733 | Northwestern Pacific R. R. .. | Detour | Granted | Sept. 11, 1913 |
| 944 | 351 | National City | National City | Granted | Sept. 12, 1913 |
| 945 | 641 | Pacific Electric Ry. Co. | Santa Ana | Granted | Sept. 12, 1913 |
| 952 | 740 | Southern Pacific Co. | Calwa | Granted | Sept. 19, 1913 |

GRADE CROSSINGS—Continued.

| Dec. No. | App. No. | Applicant. | Location. | Action. | Date. |
|----------|----------|----------------------------|-----------------------|------------|----------------|
| 955 | 748 | Northwestern Pacific R.R. | Geyserville | Granted | Sept. 22, 1913 |
| 962 | 753 | Southern Pacific Co. | Puente | Granted | Sept. 23, 1913 |
| 963 | 752 | Southern Pacific Co. | Ceres | Granted | Sept. 23, 1913 |
| 964 | 754 | Southern Pacific Co. | Alvarado | Granted | Sept. 23, 1913 |
| 968 | 750 | Southern Pacific Co. | Lassen County | Granted | Sept. 25, 1913 |
| 986 | 771 | Southern Pacific Co. | Goleta | Granted | Oct. 2, 1913 |
| 988 | 761 | A. T. & S. F. Ry. | Stockton | Granted | Oct. 8, 1913 |
| 999 | 776 | A. T. & S. F. Ry. | Ontario | Granted | Oct. 8, 1913 |
| 1000 | 330 | Pacific Electric Ry. Co. | Colton | Granted | Oct. 8, 1913 |
| 1001 | 780 | Los Angeles County | Norwalk | Granted | Oct. 8, 1913 |
| 1006 | 775 | Ventura County | Oxnard | Granted | Oct. 9, 1913 |
| 1007 | 765 | Hermosa Beach | Hermosa Beach | Granted | Oct. 9, 1913 |
| 1010 | 462 | Imperial County | El Centro | Granted | Oct. 14, 1913 |
| 1015 | 785 | Sacramento County | Galt | Granted | Oct. 16, 1913 |
| 1016 | 790 | Los Angeles County | Los Angeles Co. | Granted | Oct. 16, 1913 |
| 1022 | 783 | Minkler Southern Ry. | Fresno County | Granted | Oct. 16, 1913 |
| 1029 | 786 | Stockton Terminal & E. | Stockton | Granted | Oct. 16, 1913 |
| 1030 | 787 | Stockton Terminal & E. | Stockton | Granted | Oct. 16, 1913 |
| 1032 | 492 | Southern Pacific Co. | San Francisco | Granted | Oct. 17, 1913 |
| 1033 | 797 | Stanislaus County | Turlock | Granted | Oct. 17, 1913 |
| 1039 | 687 | Pacific Electric Ry. Co. | Riverside | Granted | Oct. 25, 1913 |
| 1040 | 804 | Southern Pacific Co. | Los Angeles | Granted | Oct. 25, 1913 |
| 1044 | 802 | Southern Pacific Co. | Calexico | Granted | Oct. 27, 1913 |
| 1048 | 805 | Ventura Co. Ry. Co. | Ventura County | Granted | Oct. 29, 1913 |
| 1049 | 806 | Pacific Electric Ry. Co. | Los Angeles Co. | Granted | Oct. 29, 1913 |
| 1050 | 786 | Stockton Terminal & E. | Stockton | Granted | Oct. 29, 1913 |
| 1061 | 459 | Northern Electric Ry. | Cement | Granted | Oct. 31, 1913 |
| 1063 | 322 | Tidewater Southern Ry. | Stockton | Granted | Nov. 1, 1913 |
| 1064 | 815 | Northwestern Pacific R.R. | Willits | Granted | Nov. 5, 1913 |
| 1065 | 816 | Stanislaus County | Stanislaus Co. | Granted | Nov. 5, 1913 |
| 1070 | 592 | Southern Pacific Co. | Los Angeles Co. | Granted | Nov. 5, 1913 |
| 1071 | 739 | San Ramon Valley R. R. | Contra Costa County | Granted | Nov. 5, 1913 |
| 1093 | 821 | Pacific Electric Ry. Co. | Los Angeles Co. | Granted | Nov. 26, 1913 |
| 1094 | 824 | Southern Pacific Co. | Fresno | Granted | Nov. 26, 1913 |
| 1095 | 826 | Northwestern Pacific R. R. | Sausalito | Granted | Nov. 26, 1913 |
| 1096 | 760 | Southern Pacific Co. | Lassen County | Sup. order | Nov. 26, 1913 |
| 1097 | 820 | Pacific Electric Ry. Co. | Los Angeles Co. | Granted | Nov. 26, 1913 |
| 1098 | 838 | Pacific Electric Ry. Co. | San Bernardino County | Granted | Nov. 26, 1913 |
| 1103 | 580 | Pacific Electric Ry. Co. | Orange County | Sup. order | Dec. 3, 1913 |
| 1104 | 810 | Los Angeles County | Glendora | Granted | Dec. 3, 1913 |
| 1105 | 850 | Southern Pacific Co. | Vernon | Granted | Dec. 3, 1913 |
| 1107 | 815 | Peninsular Ry. Co. | Santa Clara Co. | Granted | Dec. 3, 1913 |
| 1114 | 864 | City of Tracy | Tracy | Granted | Dec. 5, 1913 |
| 1115 | 865 | Southern Pacific Co. | San Francisco | Granted | Dec. 5, 1913 |
| 1125 | 235 | Alameda County | Alameda Co. | Granted | Dec. 13, 1913 |
| 1126 | 863 | Central Calif. Traction | Sacramento | Granted | Dec. 13, 1913 |
| 1127 | 866 | A. T. & S. F. Ry. Co. | Los Angeles | Granted | Dec. 13, 1913 |
| 1128 | 873 | A. T. & S. F. Ry. Co. | San Bernardino County | Granted | Dec. 13, 1913 |
| 1154 | 221 | Pacific Electric Ry. | Raymer | Granted | Dec. 22, 1913 |
| 1155 | 883 | Glenn County | Willows | Granted | Dec. 22, 1913 |
| 1156 | 900 | Southern Pacific Co. | Fairfield | Granted | Dec. 22, 1913 |
| 1157 | 902 | Northern Electric Ry. | Fairfield | Granted | Dec. 22, 1913 |
| 1173 | 912 | Peninsular Railway Co. | San Jose | Granted | Dec. 30, 1913 |
| 1174 | 895 | Pacific Electric Ry. Co. | Pasadena | Granted | Dec. 30, 1913 |
| 1175 | 887 | Riverside County | Riverside Co. | Granted | Dec. 30, 1913 |
| 1181 | 655 | Minkler Southern Ry. Co. | Tulare County | Sup. order | Dec. 31, 1913 |
| 1182 | 877 | Minkler Southern Ry. Co. | Tulare County | Granted | Dec. 31, 1913 |
| 1183 | 783 | Minkler Southern Ry. Co. | Fresno County | Granted | Dec. 31, 1913 |

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